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STATE OF CALIFORNIA

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

BOARD MEETING

JOE SERNA JR., CAL EPA BUILDING

CENTRAL VALLEY AUDITORIUM

1001 I STREET, SECOND FLOOR

SACRAMENTO, CALIFORNIA

WEDNESDAY, SEPTEMBER 12, 2001

9:38 A.M.

Doris M. Bailey, CSR, RPR, CRR -

Certified Shorthand Reporter

License Number 8751

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APPEARANCES

BOARD MEMBERS PRESENT:

LINDA MOULTON-PATTERSON, Chair

DAN EATON

STEVEN R. JONES

JOSE MEDINA

MICHAEL PAPARIAN

STAFF PRESENT:

MARK LEARY, Interim Executive Director

KATHRYN TOBIAS, Chief Counsel

ELLIOT BLACK, Legal Counsel

DEBORAH MCKEE, Board Assistant

PEGGY FARRELL, Acting Board Secretary

ALSO PRESENT:

EDNA WALZ, Office of the Attorney General

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INDEX

PAGE

Call to order	1
Opening Remarks	1
Roll Call	2
Agenda Item 6	11
Motion	24
Agenda Item 7	25
Agenda Item 8	30,66
Motion	67
Agenda Item	10
Motion	36
Agenda Item 13	37
Motion	38
Agenda Item 14	39
Motion	40
Agenda Item 15	42
Motion	48
Agenda Item 16	49
Motion	59
Agenda Item 17	61
Motion	63
Agenda Item 18	63
Motion	65
Agenda Item 9	68
Motion	69
Agenda Item 1	69
Motion	75
Agenda Item 2	75
Motion	77

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I N D E X (Continued)

PAGE

Agenda Item 3	78
Motion	82
Agenda Item 5	83
Agenda Item 21	86
Agenda Item 23	88
Motion	89
Agenda Item 24	90
AFTERNOON SESSION	96
Agenda Item 28	96
Motion	101
Agenda Item 26	103
Motion	104
Agenda Item 30	105
Motion	111
Agenda Item 27	112
Motion	127
Agenda Item 29	128
Motion	132
Adjournment	134
Certificate of Certified Shorthand Reporter	135

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1 PROCEEDINGS

2 --oOo--

3 BOARD CHAIR MOULTON PATTERSON: Good morning.

4 On behalf of our Board I'd like to extend our

5 deepest sympathies and condolences in the horrible

6 tragedy our nation endured yesterday. We join the

7 Governor and all Californians in condemning the vicious

8 terrorist acts that occurred, and their use of commercial

9 airline flights to exact a terrible toll on innocent

10 United States citizens.

11 Please join me in a moment of silence for the

12 victims and their families.

13 (Moment of Silence.)

14 BOARD CHAIR MOULTON PATTERSON: Let me say again

15 that our hearts go out to everyone who is, who was on

16 board those flights, all of which had destinations here

17 in California and to their loved ones, as well as anyone

18 on the ground who may have been involved in the traumatic

19 events.

20 We will all hold them close in our thoughts and

21 prayers. We also pray for a speedy recovery for those

22 who are injured.

23 Out of respect for the victims we did not meet

24 yesterday, but we will attempt to complete our entire

25 agenda today. We know that airports remain closed and

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1 that people who planned to be here will not be able to
2 attend today's meeting.

3 There are certain items on our agenda that the
4 Board must act on today. However, there are others that
5 may not be as critical.

6 If anyone is aware of a need to delay an item
7 until later in the day to accommodate alternate travel
8 plans, I will attempt to do that. We also may continue
9 items to our next agenda if that's necessary.

10 Also, there's a blood drive being held on the
11 first floor of our building in training room one. The
12 hours are 8:00 a.m. to 3:00 p.m. The Red Cross is asking
13 for donations of 0 positive and 0 negative blood.

14 And I know it doesn't even need to be said, but
15 would all of our supervisors and anyone please make
16 arrangements for anyone that works for our Board to have
17 our employees have the time to donate blood when it's
18 convenient for them.

19 And with that, would the secretary please call
20 the roll?

21 BOARD SECRETARY FARRELL: Board member Eaton?

22 (Not present.)

23 BOARD SECRETARY FARRELL: Jones?

24 BOARD MEMBER JONES: Here.

25 BOARD SECRETARY FARRELL: Medina?

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1 BOARD MEMBER MEDINA: Here.

2 BOARD SECRETARY FARRELL: Paparian?

3 BOARD MEMBER PAPARIAN: Here.

4 BOARD SECRETARY FARRELL: Roberti?

5 (Not present.)

6 BOARD SECRETARY FARRELL: Moulton-Patterson?

7 BOARD CHAIR MOULTON-PATTERSON: Here.

8 Please turn off cell phones and pagers. And for

9 those of you in the audience, there are speaker request

10 forms on the back table. If you wish to address an item,

11 please give them to Ms. Farrell right down here and she

12 will make sure that we get them and you can speak at the

13 appropriate time.

14 Lastly, there will be a closed session today

15 after lunch at 1:30 p.m.

16 And with that I will go to ex-partes.

17 Mr. Jones.

18 BOARD MEMBER JONES: Thanks, Madam Chair, all up

19 to speed.

20 BOARD CHAIR MOULTON-PATTERSON: Mr. Medina.

21 BOARD MEMBER MEDINA: Just one current one. Joe

22 Montoya regarding the Senate Select Committee on

23 landfills hearing that took place recently.

24 BOARD CHAIR MOULTON-PATTERSON: Thank you.

25 Mr. Paparian.

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1 BOARD MEMBER PAPARIAN: Yeah, I had brief
2 conversations yesterday with Mark Aprea regarding item
3 number fifteen, John Cupps regarding item number 17, and
4 Mike Schmaeling from Santa Barbara, just a meet and
5 greet.

6 BOARD CHAIR MOULTON-PATTERSON: Thank you. And
7 I'm up to date except for a letter regarding the East Los
8 Angeles transfer station from Supervisor Gloria Molina.
9 Mr. Jones, did you have a report?

10 BOARD MEMBER JONES: Because of the time
11 constraints I'm just going to hit two things real quick.
12 The South Coast Air District meeting on Rule
13 1133, in talking to your advisor, Ms. Bruce, it looks
14 like there may be some changes offered, and I just think
15 we have to stay on top of this, that it could absolutely
16 kill AS 939.

17 I'm going to be in Southern California next
18 week, and their next meeting is on a Friday, so I'd like
19 to be able to attend that to continue to offer testimony.
20 And the first California specific SWANA training
21 will take place next week in Whittier, California. For
22 those of you in the industry or publics that need to get
23 their certification, this is going to be the first one
24 that is going to be California specific. It's ground
25 breaking stuff and it's important that we're there. I'm

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1 going to be there as a student and see if I can pass the
2 test.

3 Thanks.

4 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.

5 Jones, and thank you for your work with the AQMD.

6 Mr. Medina.

7 BOARD MEMBER MEDINA: No report at this time.

8 BOARD CHAIR MOULTON-PATTERSON: Thank you.

9 Mr. Paparian.

10 BOARD MEMBER PAPARIAN: Yeah, just quickly. I,
11 a couple of days ago went up to the open house at Yuba
12 Sutter Disposal, they're rolling out some recycling
13 programs up there as a result of the compliance order
14 that they're under, doing some interesting things up
15 there.

16 I wanted to thank, I attended a meeting of the
17 graduate students who are going to look at the tire
18 subsidy issues, and I thought it was really well put
19 together. I wanted to thank Martha Gildart especially
20 for a good job in pulling that meeting together, and
21 organizing a good group of people with expertise in the
22 tire area to work with the students and help them in
23 developing this project.

24 And also another tire note. There was a meeting

25 I know down in Southern California with Caltrans last

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1 month regarding, a couple of weeks ago regarding RAC.

2 And my advisor, Kit Cole attended that, and I think some

3 very good things came out of that from what I've heard.

4 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.

5 Paparian.

6 I'll be very brief also. I just wanted to

7 congratulate the LEA, congratulate staff. I attended the

8 LEA conferences, as I think did all of my colleagues that

9 are up here, and it was a great success. And we

10 appreciate all your efforts, that communication is very

11 important.

12 And then I also wanted to mention that October

13 4th through 10th is National Pollution Prevention Week,

14 and we will be publicizing our WRAP winners during

15 Pollution Prevention Week. So I wanted to remind

16 everyone to please participate in this week in your

17 area. Thank you.

18 At this time I'll turn it over to our Interim

19 Executive Director Mark Leary.

20 INTERIM EXECUTIVE DIRECTOR LEARY: Thank you,

21 Madam Chair. Just briefly also I'd like to comment

22 about, in the wake of yesterday's activities, that I

23 wanted to assure the Board that the Board is actively

24 engaged with the Governor's Office of Emergency Services

25 and Emergency Preparedness through Cal EPA's Emergency

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1 Response Management Advisory Committee.

2 As you know, our representative Mitch Delmage,

3 and Mitch was here all day yesterday in contact with Cal

4 EPA. Cal EPA had a presence at the state operations

5 center, as well as Cal EPA has an interim or a temporary

6 operations center of its own out at Cal Center, our

7 former location which is now occupied by the Department

8 of Toxic Substances Control.

9 I also wanted to say a special thanks to Frank

10 Simpson who was here all day yesterday acting as Cal

11 EPA's public information officer, and worked late into

12 the evening yesterday responding to media calls on behalf

13 of the agency.

. 14 BOARD CHAIR MOULTON-PATTERSON: Thank you. And

15 Mr. Leary, would you please send our thanks to everybody

16 that was involved yesterday? We know what a difficult

17 day it was for everyone.

18 INTERIM EXECUTIVE DIRECTOR LEARY: I'd be glad

19 to. And I think I left, I had to leave a meeting of Cal

20 EPA's Emergency Response Management Advisory Committee

21 led by undersecretary Haddox to kind of review

22 yesterday's activities, and have come to understand and

23 come to appreciate that although we responded well and

24 we're prepared, there are things we can improve on.

25 In fact, just for the Board's information, the

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1 Department of Toxic Substances Control has committed to
2 creating a permanent emergency response operations center
3 at Cal Center on behalf of Cal EPA that would then
4 provide a direct link to the governor's state operations
5 center through emergency services should the need arise
6 in the future.

7 Then very briefly back to regular business.

8 I'll quickly summarize that the Board, of course, was
9 represented at the Senate Select Committee of Urban
10 Landfills on August 24th in Los Angeles.

11 I wanted to pass on to the Board that the
12 discussion there prompted Senator Alarcon to clearly
13 voice his displeasure at what he perceived is a delay by
14 the Board in responding to the audit report.

15 But I assured the Senator that the Board was
16 proceeding expeditiously in its efforts to address all
17 the recommendations of the report. And ultimately I
18 think, with Deputy Director Julie Nauman's help, we were
19 able to convince the committee that the Board is moving
20 quickly in response to all of its regulatory
21 responsibilities and moving responsibly.

22 The activities of the Senate Select Committee
23 will continue the next, their next meeting is next week,
24 September 19th in El Monte, and Julie and I and others
25 will, are planning on attending.

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1 In regards to the implementation of Senate Bill

2 2202, I wanted you all to know that we've circulated over

3 a thousand copies of the first draft of the comprehensive

4 analysis of the Integrated Waste Management Act Diversion

5 Rate Measurement System. We've received some comment

6 letters, we are responding to those comments, and that we

7 will be doing a full presentation of the draft report

8 Wednesday afternoon, October 17th, after the Board's

9 agenda briefing that morning in October.

10 And then finally, the Chair and I met with

11 Secretary Hickox implementing the Board's direction to me

12 to bring the agency's review of the memorandum of

13 understanding for carpet stewardship. And we were

14 successful, convinced Secretary Hickox to support that

15 nationwide effort to implement product stewardship in the

16 carpet area. And that Senator Hick -- or Secretary

17 Hickox, excuse me, committed to working with Secretary

18 Eileen Adams to garner her support as well.

19 So it looks like the State of California will be

20 well represented and have signed on in support of that

21 national effort. And I want to thank Patty Wohl and her

22 staff for leading that charge and participating in that

23 success.

24 Thank you.

25 BOARD CHAIR MOULTON-PATTERSON: Thank you.

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1 Okay. Onto the agenda. Item four was deleted, and

2 please correct me if I'm wrong on any of these, I know

3 there's been some last minute things. Items 11, 12, 33,

4 and 34 have been pulled.

5 And I would like to pull item 19. And I'm

6 forming a budget subcommittee which will review this item

7 and bring it back in October.

8 Item 22 and 25 are continued to October.

9 Item 31 has been placed on the consent agenda.

10 Also, I've had a request from Mr. Medina to pull

11 item 20, is that correct?

12 BOARD MEMBER MEDINA: That's correct.

13 BOARD CHAIR MOULTON-PATTERSON: Thank you. And

14 on the Budget Subcommittee for the record, I appointed

15 myself and Board member Mr. Paparian, Board member Mr.

16 Medina, and these will be publicly noticed meetings, is

17 that correct, for the subcommittee?

18 Okay. Item 31 has been placed on the consent

19 agenda.

20 Would any board member wish to pull it from

21 consent?

22 BOARD CHAIR MOULTON PATTERSON: Okay. With

23 that --

24 BOARD MEMBER JONES: Madam Chair.

25 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

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1 BOARD MEMBER JONES: I'll move adoption of the

2 consent calendar.

3 BOARD MEMBER MEDINA: Second.

4 BOARD CHAIR MOULTON-PATTERSON: Okay. We have a

5 motion by Mr. Jones, seconded by Mr. Medina to pass item

6 31 on consent.

7 Please call the roll.

8 BOARD SECRETARY FARRELL: Board member Jones?

9 BOARD MEMBER JONES: Aye.

10 BOARD SECRETARY FARRELL: Medina?

11 BOARD MEMBER MEDINA: Aye.

12 BOARD SECRETARY FARRELL: Paparian?

13 BOARD MEMBER PAPARIAN: Aye.

14 BOARD SECRETARY FARRELL: Moulton-Patterson?

15 BOARD CHAIR MOULTON-PATTERSON: Aye.

16 We have no continued business agenda items.

17 And today on our new business agenda items today

18 since permits are time sensitive, we will take the

19 permits first before the diversion items. And I'll turn

20 it over now to Ms. Nauman.

21 MS. NAUMAN: Thank you. Good morning, Madam

22 Chair and Board members, Julie Nauman, Permitting and

23 Enforcement Division.

24 The first item in this section is item six which

25 is consideration of adoption of proposed regulations

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1 amending standards for acceptance of insurance as a
2 financial assurance demonstration.
3 The Board will recall that you had this item
4 before you in August, at which time you directed us to
5 make a couple of changes and to notice the package for an
6 additional fifteen days.
7 We have done that. The comment period has
8 closed. We have a couple of comments, letters that were
9 received, and I will turn the presentation over to
10 Richard Castle who will review with you those comments
11 that were received during the fifteen day comment period
12 and present our recommendation.

13 BOARD CHAIR MOULTON-PATTERSON: Thank you.

14 MR. CASTLE: Good morning, Madam Chair and Board
15 members.

16 We received two comment letters, one from Waste
17 Management and one from the City of Sunnyvale. And I'll
18 just summarize the comments very briefly, I know we're
19 time constrained here.

20 Waste Management's comments were for the most
21 part repeats of the comments that have come in the last
22 two comment periods also.

23 Number one was that the regulations still result
24 in a de facto ban of pure captives.

25 Staff has never suggested this as a ban. We

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1 don't support the idea that it's a ban. This merely runs
2 all captive insurance through our Department of Insurance
3 to be reviewed under the expertise of our California
4 Department of Insurance as insurance coverage.

5 We have spoken with the people at the Department
6 of Insurance and are convinced that they will treat them
7 not as commercial insurance companies but as captive
8 insurance companies and look at them in that special
9 circumstance. And this would not have an effect on the
10 regulations.

11 So that would be the response to that comment.

12 Comment two is that no other California statute
13 or regulation requires pure captives to obtain approval
14 by the Department of Insurance.

15 And that's outside the rulemaking. It wouldn't
16 matter if we are the only ones or not. We did not review
17 to see if we are the only state agency that would require
18 that, but it's irrelevant to the rulemaking.

19 The proposed regulations are anti-business.

20 This is irrelevant to the rulemaking, but staff
21 disagrees with that comment. This creates, in our
22 opinion, a more level playing field between the different
23 companies providing assurances to the state.

24 Captive insurance has an exemplary track record.

25 That's outside the rulemaking, and we don't

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1 argue with any of those facts about the captive insurance
2 companies.

3 The proposed regulations are not consistent with
4 the provisions of PRC, specifically Section 43601.

5 Staff believe they are consistent with Section
6 43601. And legal counsel has made, for the Board, has
7 directed us that we are within the Board's authority to
8 act on these regulations in this manner.

9 There is a statement made that this does not
10 constitute a reasonable condition, and that when there
11 are several other state programs, most notably Vermont's,
12 that are specifically established to regulate pure
13 captives that do not transact the business of insurance
14 to other parties.

15 Once again, we're not suggesting that the
16 captive insurers be required to transact business of
17 other parties. In fact, we've been assured by our
18 Department of Insurance that that would not be the case.

19 And as a side note, it's been our direct comment
20 from the Waste Management Department of the State of
21 Vermont that Vermont does not accept captive insurance
22 for financial assurance demonstration.

23 The proposed regulation ignores previous
24 legislative history.

25 Staff disagrees with that. I think the Board

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1 has been very diligent to follow the legislative history
2 and try to stay within the guidelines and the direction
3 of the legislature, especially having met with Senator
4 Figueroa's representatives to try to meet the needs of
5 the legislature with this regulation package.

6 The regulation is not necessary.

7 Obviously the Board has directed staff to do
8 this, and we believe it is necessary, and that's outside
9 the rulemaking.

10 The next comment is regulation is premature
11 because U.S. EPA is working on this very issue right now.
12 Any action the Board takes does not prevent the
13 U.S. EPA from making further action. If at some point in
14 the future U.S. EPA determines to do something specific
15 with captive insurance, the Board would still have
16 complete ability to react and comply with those U.S. EPA
17 changes to their requirements.

18 Pending clarification by the U.S. EPA, concerns
19. over the issue of assignment should not be used as a
20 basis to adopt the proposed regulations.

21 Assignment was only one of the issues that we
22 felt was in direct conflict in the regulations, and that
23 was the reason we had a concern with captive insurance,
24 although we are now allowing it if it's proven to be
25 adequate coverage.

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1 The issue of whether captive insurance is surety or not
2 is irrelevant.

3 And staff definitely disagrees with that statement,
4 although that's outside the rulemaking. Surety is
5 covered entirely under a separate section, and we do
6 fully allow surety coverage as a financial assurance
7 demonstration, and so do the federal government under
8 U.S. EPA requirements.

9 The proposed regulations limit available financial
10 assurance options. The only limit on the option is that
11 the captive insurer would have to prove itself to our
12 Department of Insurance. So we are not limiting the
13 option, we are just setting a California standard for
14 the use of that option.

15 The proposed regulations are not based on a thorough
16 evaluation of specialized licensing requirements of
17 other states.

18 We are basing our requirements on the licensing
19 requirements of our state. So we're supported by our
20 legal office that we have authority to do this as the
21 Board, and we are looking to our insurance experts to
22 ensure the State of California is fully protecting the
23 citizens of the State of California.

24 The comment letter from the City -- that's the end of
25 the comments from Waste Management.

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1 The comment letter from the City of Sunnyvale
2 was specific to requesting the Board to actually go back
3 to a pure ban of all captive insurance.
4 So actually, obviously we've seen, between the
5 two commenters we've got a complete spectrum here of ban
6 it entirely or allow it completely.
7 We had no other comments. Before I end I want
8 to comment that we need to, if the Board chooses to adopt
9 the regulations today, also make a finding that it is
10 within the resolution that's included in your packet,
11 that these regulations are exempt from CEQA, and we will
12 process the necessary paperwork with the state for that
13 exemption.
14 And that's within the resolution.
15 BOARD CHAIR MOULTON-PATTERSON: Thank you. Any
16 questions from Board members for Mr. Castle?
17 Mr. Jones.
18 BOARD MEMBER JONES: Madam Chair. Who is this
19 from that we just got? There's no name on it.
20 MS. NAUMAN: Mr. Jones, I believe it is from
21 Waste Management. It appears to be an attachment that
22 was part of their letter.
23 BOARD MEMBER JONES: We'd just ask, and I know
24 it's tough, but this stuff we don't even know who it
25 comes from when it gets up here.

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1 The insurance companies that, the insurance
2 representative that made comments at the last Board
3 meeting about the face value of a policy, did they, were
4 they comfortable with the language you put in
5 subsequently?

6 MR. CASTLE: We received no further comment from
7 them, and I didn't make specific calls to them, but they
8 were all specifically individually noticed the
9 regulations with all the changes to the language, and we
10 got no further comment from the insurance company.

11 BOARD MEMBER JONES: Cause the change basically
12 took care of what they wanted, you're saying the face
13 value --

14 MR. CASTLE: That was our intent.

15 BOARD MEMBER JONES: -- and if it's more than
16 that we'll send it back to you, but we're keeping it
17 until we're sure the work is done.

18 MR. CASTLE: Yes, sir.

19 BOARD MEMBER JONES: Okay.

20 BOARD CHAIR MOULTON-PATTERSON: Then we'll go to
21 our speakers. Mr. Chuck White.

22 MR. WHITE: Thank you, Madam Chair and members
23 of the Board. Chuck White representing Waste Management.
24 We have submitted a letter that was referenced
25 by your staff dated, I believe it was September 4th, and

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1 I did hand out a table that Mr. Jones made reference to.

2 My apologies for not including Waste

3 Management's name on that, but it is from Waste

4 Management, and it is a duplicate of the chart that was

5 contained in the letter.

6 Waste Management does respectfully disagree with

7 the need to proceed with this rulemaking. We do believe

8 it will result in a de facto ban on captive insurance,

9 and there isn't any other California statute or

10 regulation that requires a pure captive such as is

11 licensed by the State of Vermont to secure licensing or

12 approval by the California Department of Insurance for a

13 corporation to offer that as a pure captive in this

14 state.

15 We don't, we just simply can't turn away from

16 the clear indication that of all the financial assurance

17 mechanisms that are out there, captive insurance has

18 probably the most exemplary track record of anything,

19 particularly those licensed by the State of Vermont.

20 There's never been a failure of a pure captive licensed

21 by the State of Vermont to meet its financial

22 obligations. Unfortunately, that same statement cannot

23 be said of many of the other mechanisms that are

24 otherwise allowed by the Board.

25 Probably the most compelling reason we believe

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1 that the Board should not proceed with this is described
2 on that chart which I did hand out and is contained in
3 the letter which we believe! we hope and we believe
4 clearly documents the inconsistency that would be created
5 by this rulemaking, and the existing statute that was
6 adopted by the legislature pursuant to Senator Figueroa,
7 then Assemblywoman Figueroa's legislation of a couple of
8 years ago.

9 And if, this chart, if you could turn to this
10 chart, unfortunately I don't have it available for
11 overhead, or if I do I don't know how to work it.
12 But the Public Resources Code essentially
13 established, and if you look along the left-hand column
14 of this table, that first block, it's fairly clear in
15 the, very clear in our opinion, that the legislature says
16 you can either do paragraph one or you can do paragraph
17 two.

18 Paragraph one gives the Board the option to have
19 a issuer of insurance policy be either licensed or
20 approved by the California Department of Insurance. Are
21 you able to hear me?

22 BOARD CHAIR MOULTON-PATTERSON: We can hear you
23 but it's --

24 MR. WHITE: I'll try to speak up unless you wish
25 me to pause?

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1 BOARD CHAIR MOULTON-PATTERSON: Can you hear

2 okay, Doris?

3 COURT REPORTER: Yes.

4 MR. WHITE: Okay. So you have two options. One

5 option is you can either, according to the legislation

6 either be licensed or approved by the California

7 Department of Insurance. And I emphasized in that first

8 paragraph there, it's an either/or situation.

9 The second option is paragraph two. And

10 basically the paragraph two says if the carrier is

11 established by a solid waste operator, i.e., if you're a

12 captive insurance company, then there is a totally

13 separate procedure.

14 Unfortunately, what the Board and -- staff has

15 proposed is regulations that require a captive insurance

16 company to be measured under paragraph one.

17 If you'll note, there's very similar language,

18 not exactly the same, but very similar language

19 paralleled between Section 22248 in the Board's proposed

20 regulations, and the existing statute.

21 But it basically places captive insurance into

22 the licensing and approval option, and ignores totally

23 the second option that the legislature has offered the

24 Board and directed the Board to consider.

25 Either paragraph one, you get licensed or

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1 approved by the California Department of Insurance; or
2 paragraph two, if you're a captive insurance company, the
3 Board may approve according to the other criteria that
4 goes onto the second page.

5 And we believe this is an absolute outright
6 blatant inconsistency between the proposed regulation
7 which purports to require pure captives to be subject to
8 the same standards that, of a licensing or approval of
9 the California Department of Insurance where they -- the
10 legislature has spoken as clearly as we can imagine, that
11 there are two options.

12 Either you get licensed or approved, or if
13 you're a captive there's a separate paragraph
14 altogether. It's either/or. It's not a combination of
15 the two which the proposed regulations purport to do.

16 We believe this is a serious inconsistency with
17 statute and simply cannot be ignored.

18 Now this is really the key of our argument. But
19 I want to point out, as I have pointed out in the past,
20 and we believe this is totally inconsistent with the
21 legislative history; I was sitting in the same room with
22 Senator Figueroa's staff, and they clearly said that the
23 direction the Board is taking is inconsistent with the
24 trajectory of recent legislation in this area. And those
25 are the words right out of the mouth of Ed Howard, the

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1 assistant to Senator Figueroa.

2 But probably, you know, equally important is the
3 fact that this regulation is not necessary. There's no
4 one using captive insurance for solid waste facilities in
5 this state, no one could use it unless they come and
6 petition your Board, this Board right here today to
7 approve it. In the absence of your approval no one can
8 use it. So there's no need to create this requirement to
9 go to, for licensing or approval by the California
10 Department of Insurance that we believe is clearly
11 inconsistent with the existing statute.

12 And furthermore, there's a lot more discussion
13 going on right now with U.S. EPA. The regulation is
14 premature, there's going to be some guidance we believe
15 coming out from U.S. EPA on how the federal regulations
16 should be interpreted.

17 we would suggest and highly recommend that the
18 Board not take action on these regulations, don't approve
19 any captives in the interim, but wait and see what U.S.
20 EPA does to clarify the admittedly confusing language of
21 their regulations which were the basis for some of your
22 regulations.

23 I won't really go over some of the other points.

24 But I really wish you would seriously consider this, what
25 we believe to be a clear inconsistency between the

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1 statute and regulations, and recognize that there is no
2 need for you to adopt these regulations today, that
3 nothing is going to change, nothing is going to happen,
4 no one is going to use this captive, and let the process
5 proceed to figure out working out some of these issues in
6 the upcoming weeks and months. And then, in your wisdom,
7 you can always come back in the future and take some
8 action if you deem it necessary.

9 But we would strongly request that you defer
10 action on this particular, this particular proposal at
11 this time, primarily because of the inconsistency with
12 state statute, and the lack of any immediate need to
13 proceed with these regulations.

14 Thank you very much.

15 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.

16 White.

17 Any questions or comments by Board members? Do

18 I have a motion?

19 BOARD MEMBER MEDINA: Madam Chair, I'd like to
20 move Resolution 2001-334, consideration of adoption of
21 proposed regulations amending standards for acceptance of
22 insurance as a financial assurance demonstration.

23 BOARD CHAIR MOULTON PATTERSON: Thank you.

24 Motion by Mr. Medina. I'll second it.

25 Please call the roll.

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1 BOARD SECRETARY FARRELL: Jones?

2 BOARD MEMBER JONES: Aye.

3 BOARD SECRETARY FARRELL: Medina?

4 BOARD MEMBER MEDINA: Aye.

5 BOARD SECRETARY FARRELL: Paparian?

6 BOARD MEMBER PAPARIAN: Aye.

7 BOARD SECRETARY FARRELL: Moulton-Patterson?

8 BOARD CHAIR MOULTON-PATTERSON: Aye. Thank you.

9 Item seven.

10 MS. NAUMAN: Thank you, Madam Chair. Item seven

11 is consideration of approval to formally notice proposed

12 regulations for the transfer processing of putrescible

13 waste.

14 The Board will recall in April of this year you

15 adopted emergency regulations that were intended to

16 clarify the application of existing regulations to the

17 transfer processing of putrescible waste.

18 The Office of Administrative Law approved that

19 emergency regulation package on August 13th with a 180

20 day delayed effective date, which takes us to February

21 13th of next year.

22 Bob Holmes of my staff will be presenting the

23 item for you and review the workshops that we've held,

24 the issues that have been discussed, and our

25 recommendation.

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1 BOARD CHAIR MOULTON PATTERSON: Good morning,

2 Mr. Holmes.

3 MR. HOLMES: Good morning, Madam Chair and Board

4 members.

5 Board staff held two workshops, one on the 16th

6 of July in Diamond Bar, and one on the 17th of July here

7 in Sacramento. The input we received, based on the input

8 we received we made some clarifying changes to the

9 regulations, there's, in five different sections. And I

10 was going to go over those with you, but in light of the

11 time I will only if you ask me to go through those.

12 The outstanding issues remain, the same issues,

13 the same big issues that we had as we processed the

14 emergency regulations; and that is the trigger or the

15 risk of calculation of the risk that we're using that

16 equation which is the definition of putrescible waste,

17 what's considered putrescible times that percent number

18 as the trigger which equals, equals the risk or equals

19 the trigger by which a facility would be drawn into these

20 regulations.

21 The, there's, we've received pro and con

22 comments with regard to the definition of putrescible

23 waste. Some folks feel that it's too limiting. The

24 examples that are given, the examples of putrescible

25 waste, there's only three within the definition, and they

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1 feel that that's too little, that it's too difficult to
2 interpret that definition being so limited. They also
3 feel that it's subjective and open to differing
4 interpretations by different LEAs statewide.
5 Others think that it's okay, that it's a
6 workable definition, that it provides an LEA with the
7 flexibility to consider site specific conditions, and so
8 they are happy with the way it is.
9 With respect to the one percent number, some
10 folks feel that that's too low. In normal operating
11 conditions that one percent will be exceeded on a daily
12 basis, There's also some concern by local enforcement
13 agencies that that number will be difficult to measure,
14 one percent is too low to measure.
15 Some commenters also felt that we are not using
16 the right trigger, or putrescible waste isn't really the
17 material that we're after, we're after food wastes.
18 And staff's response to that is that the
19 definition of food waste in our experience has also been
20 a very subjective term, difficult to define, and when you
21 get down to putting pencil to paper in defining what food
22 waste is, you end up at the putrescible waste definition.
23 So given that, given that we're, we kind of are
24 on both sides, we have commenters on both sides of the
25 issues, we felt that there's not much more we can do in

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1 the informal period, we're ready to move on to the formal
2 rulemaking, and we'll hopefully get some resolutions to
3 the issues.

4 we do have a, one correction to the staff report
5 in the recommendations section. We are recommending that
6 the Board approve a 45 day public comment period for the
7 compostable materials regulations, that of course is a
8 separate but related package. We're recommending that
9 you, that we notice this putrescible waste package for 45
10 day public comment.

11 BOARD CHAIR MOULTON-PATTERSON: Okay. Mr.

12 Paparian, did you have a comment?

13 BOARD MEMBER PAPARIAN: Just quickly. I don't
14 think there's a resolution necessary at this time.

15 BOARD CHAIR MOULTON-PATTERSON: No, there isn't,
16 we just need to give direction.

17 BOARD MEMBER PAPARIAN: Yeah. I mean I think
18 the staff has really moved a along trying to address the
19 concerns that have been raised, and as far as I'm
20 concerned we should go ahead and move forward and do the
21 notice and deal with any other issues that come up in
22 that process.

23 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
24 you, Mr. Paparian.

25 Mr. Jones.

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1 BOARD MEMBER JONES: Thanks, Madam Chair, I
2 agree that we need to move forward with the 45 days.
3 I would just like to ask, we, a definition was
4 used when this issue came forward that it was source
5 separated because it was called commingled organics.
6 Is there a need, considering the entire waste
7 stream could be considered commingled organics, is there
8 a need to kind of define that a little better here so
9 that we don't have a problem with somebody using that
10 term again and calling it source separated? You know
11 what I'm referring to?

12 MR. HOLMES: I believe so, but by amending the
13 two part test language --

14 BOARD MEMBER JONES: I don't want to amend the
15 two part test language. Under the definition a term, the
16 term that was used when we tested the two part test was
17 that the material was referred to as commingled organics,
18 and the LEA felt that was, that fit into the source
19 separated.

20 We did not. agree with that, that's why we went
21 through that process.

22 I guess what I'm asking is since we have 45 days
23 to do the package, is there any need to address that, put
24 it in that we see that as a, we don't see that as a form
25 of source separation, or do we want to leave it alone?

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1 I throw it out to you and Elliot just so we

2 don't go through this and then come up with the same

3 problem that we had that started it.

4 MR. HOLMES: I think we're always open to adding

5 clarification where it's needed. My personal feeling is

6 that it's covered.

7 BOARD MEMBER JONES: Okay. That's fine. No

8 problem.

9 MR. HOLMES: But if there's a concern we can

10 certainly address it.

11 BOARD MEMBER JONES: That's fine. If it's

12 covered I'm happy.

13 BOARD CHAIR MOULTON-PATTERSON: Thank you. So

14 we will accept staff's recommendation option one to go

15 out for the 45 day. And thank you for all your work on

16 this.

17 Item number eight.

18 MS. NAUMAN: Item number eight is consideration

19 of a revised solid waste facility permit for the United

20 States Marine Corps 29 Palms disposal site in San

21 Bernardino County.

22 Mark De Bie will make the presentation.

23 MR. de BIE: Thank you, Julie. Mark De Bie with

24 the Permitting and Inspection Branch covering for staff

25 in Southern California that could not be at the meeting

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1 today.

2 This permit would allow the facility to extend
3 its closure year by five years. And the permit language
4 is being updated to reflect the removal of duplicative
5 language with other agencies, and overlapping
6 requirements in the permit.

7 Staff has been able to make all of the required
8 findings and, therefore, recommend concurrence on the
9 issuance of the permit.

10 BOARD CHAIR MOULTON PATTERSON: Thank you.

11 Mr. Medina.

12 BOARD MEMBER MEDINA: Yes, I wonder if you could
13 give me some information regarding the four state minimum
14 standard violations, their nature, and if those have been
15 corrected? And those took place between January and June
16 of this year.

17 MR. de BIE: I cannot give you details on this
18 particular site with those four violations at this time.
19 I don't have it in front of me and staff isn't available
20 to me to answer that question.

21 BOARD MEMBER MEDINA: It would help me to make a
22 determination on this if I knew the severity and nature
23 of these violations and if, in fact, steps have been
24 taken to correct them.

25 MR. de BIE: I can assure you that steps have

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1 been taken to correct them. It is operating procedure
2 for Board staff to do a pre-permit inspection, and during
3 that inspection we verify that the site is in full
4 compliance with all of the standards.

5 So any of these standards that were previously
6 noted, if they were still in place staff would have noted
7 that in their pre-permit inspection. And when staff did
8 conduct their inspection we found no outstanding issues.

9 BOARD MEMBER MEDINA: And we have no one here
10 from the facility to comment on this?

11 MR. de BIE: I do not believe we do. It's been
12 very difficult to move around the state for the last day
13 or so.

14 BOARD MEMBER MEDINA: Yeah.

15 MR. de BIE: I will ask staff, I'll ask
16 Georgianne Turner to get staff to get on the, on our
17 database and pull that number and information for you,
18 and report that to you hopefully before we finish with
19 the permits.

20 BOARD MEMBER MEDINA: Without that information I
21 could not support the approval of this permit.

22 MS. NAUMAN: Madam Chair, if I might make a
23 suggestion on, you know, since we are at a disadvantage,
24 not having our staff with us, and I apologize because I
25 know you asked this question at the briefing, and we

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1 thought we were prepared to be able to give you that

2 information this morning.

3 Perhaps on this permit and I think it's the next

4 one, or the two, I'm looking real quickly, or three that

5 don't have that detail; if we could maybe move ahead to

6 the other permit items where we have that information

7 available, that might help address this concern.

8 BOARD CHAIR MOULTON PATTERSON: So we can trail

9 this item until later?

10 MS. NAUMAN: Well perhaps we could just move to

11 the ones where we have the full set of information, and

12 let me just confer with Mark to make sure that I'm clear

13 on which those are, and then cycle back to these.

14 Madam Chair, if we might at this time move to

15 item ten, and then we will return to items eight and nine

16 as soon as staff has a chance to run the database for us.

17 BOARD CHAIR MOULTON-PATTERSON: Okay.

18 MS. NAUMAN: Thank you for that.

19 BOARD CHAIR MOULTON-PATTERSON: Item ten.

20 MS. NAUMAN: Item ten is consideration of a

21 revised solid waste facility permit for the Acme Landfill

22 in Contra Costa County.

23 And let's see if I can get it right this time.

24 Mary Madison-Johnson will make the presentation.

25 MS. MADISON-JOHNSON: Yes, good morning Board

Please note: These transcripts are not individually approved and reviewed for accuracy.

1 Chair and members. I am Mary Madison-Johnson with the

2 Permitting and Inspection Branch.

3 Acme Landfill is operated and owned by Acme Fill

4 Corporation. This proposed permit is to allow for the

5 following:

6 Increase the elevation from 60 to 75 feet mean

7 sea level to facilitate surface water runoff and enhance

8 slope inclinations to obtain proper grading for closure.

9 Increase the days and hours of operation.

10 And extend the closure date to October, 2003.

11 At the time this item was prepared the operator

12 needed to update their financial assurance documents and

13 account. The operator has provided that information, and

14 staff have completed their review and have determined

15 that all financial requirements have been met.

16 Staff have reviewed the proposed permit and

17 supporting documentation and have determined them to be

18 acceptable for consideration by the Board.

19 In conclusion, staff recommend that the Board

20 adopt solid waste facility permit decision number

21 2001-324 concurring in the issuance of solid waste

22 facility permit number 07-AA-0002.

23 Representatives from the LEA and the operator

24 are present for any questions you may have.

25 BOARD CHAIR MOULTON PATTERSON: Thank you. Any

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1 questions?

2 Mr. Medina.

3 BOARD MEMBER MEDINA: Yes, same questions in

4 regard to their compliance history. They have a number

5 of state minimum standard violations, two this year

6 compared to ten in 1997. I wonder if we could have some

7 information regarding that?

8 MS. MADISON-JOHNSON: I'm going to ask if the

9 LEA can respond to that.

10 BOARD CHAIR MOULTON-PATTERSON: Thank you.

11 Good morning.

12 MS. NG: Good morning. I'm Rebecca Ng with

13 Contra Costa Environmental Health.

14 The history, compliance history for Acme

15 Landfill over the past five to ten years has improved

16 significantly.

17 The two items noted were for cover violations,

18 and they were noted because the cover was not applied

19 adequately along the edges of the waste material.

20 However, they have been corrected, and the past, at least

21 four months inspections have appeared adequate and in

22 compliance.

23 BOARD MEMBER MEDINA: There were two violations,

24 one was for cover and what was the other one for?

25 MS. NG: They were both for cover.

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1 BOARD MEMBER MEDINA: Thank you.

2 BOARD CHAIR MOULTON-PATTERSON: Thank you, Ms.

3 Ng.

4 BOARD MEMBER PAPARIAN: Madam Chair.

5 BOARD CHAIR MOULTON-PATTERSON: Yes, Mr.

6 Paparian.

7 BOARD MEMBER PAPARIAN: Just a quick question

8 maybe for our staff. The facility takes wood, green

9 waste, C and D debris, and inert waste. Is it a

10 by-product of something that's already been sorted and

11 recycled or is it just --

12 MS. NG: No, that has not been sorted, no. That

13 has, is taken directly to the landfill from, from South

14 Haul operators.

15 BOARD MEMBER PAPARIAN: Okay. Thank you.

16 BOARD CHAIR MOULTON PATTERSON: Okay. Thank you

17 very much.

18 Okay, do we have a motion on this?

19 BOARD MEMBER MEDINA: Madam Chair.

20 BOARD CHAIR MOULTON-PATTERSON: Mr. Medina.

21 BOARD MEMBER MEDINA: Madam Chair, I'd like to

22 move Resolution 2001-324, consideration of a revised

23 solid waste facility permit for Acme landfill, Contra

24 Costa County.

25 BOARD MEMBER JONES: I'll second.

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1 BOARD CHAIR MOULTON-PATTERSON: Motion by Mr.

2 Medina, seconded by Mr. Jones.

3 Please call the roll.

4 BOARD SECRETARY FARRELL: Jones?

5 BOARD MEMBER JONES: Aye.

6 BOARD SECRETARY FARRELL: Medina?

7 BOARD MEMBER MEDINA: Aye.

8 BOARD SECRETARY FARRELL: Paparian?

9 BOARD MEMBER PAPARIAN: Aye.

10 BOARD SECRETARY FARRELL: Moulton-Patterson?

11 BOARD CHAIR MOULTON-PATTERSON: Aye.

12 MS. NAUMAN: This brings us to item thirteen

13 which is consideration of a revised solid waste facility

14 permit for the Tehachapi Recycling, Inc. facility in Kern

15 County. Chris Deidrick will make the presentation.

16 MR. DEIDRICK: Good morning, first time I've

17 been here. Good morning, Madam Chair and Board members,

18 my name is Chris Deidrick.

19 Agenda item number thirteen is for a revised

20 solid waste facility permit for Tehachapi Recycling,

21 Incorporated. If I can summarize the changes of this

22 permit.

23 The vehicle traffic count will change from 200

24 vehicles per day with specific subcategories to 200 waste

25 bearing vehicles per day.

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1 The calculated operating capacity of the
2 material recovery facility will be revised.
3 The mailing address and operator identification
4 on the permit will be updated.
5 And the permitted hours of operation will change
6 by removing a specific reference to the public, Usage of
7 the facility -- " this will be in the transfer processing
8 Board.
9 Local enforcement agency and Board staff have
10 made all the necessary findings.
11 In conclusion, staff reviewed the proposed
12 permit and supporting documentation and found them to be
13 acceptable, and staff recommends that Board adopt
14 Resolution number 2001-327 concurring in the issuance of
15 solid waste facility permit number 15-A-10106.
16 BOARD CHAIR MOULTON PATTERSON: Thank you.
17 Questions?
18 BOARD MEMBER JONES: Madam Chair.
19 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.
20 BOARD MEMBER JONES: I'll move adoption of
21 Resolution 2001-327, consideration of a revised solid
22 waste facility permit for the Tehachapi Recycling, Inc.
23 in Kern County.
24 BOARD MEMBER MEDINA: Second.
25 BOARD CHAIR MOULTON-PATTERSON: Okay. Motion by

Please note: These transcripts are not individually approved and reviewed for accuracy.

1 Mr. Jones, seconded by Mr. Medina to approve Resolution

2 2001-327.

3 Please call the roll.

4 BOARD SECRETARY FARRELL: Jones?

5 BOARD MEMBER JONES: Aye.

6 BOARD SECRETARY FARRELL: Medina?

7 BOARD MEMBER MEDINA: Aye.

8 BOARD SECRETARY FARRELL: Paparian?

9 BOARD MEMBER PAPARIAN: Aye.

10 BOARD SECRETARY FARRELL: Moulton-Patterson?

11 BOARD CHAIR MOULTON-PATTERSON: Aye. Thank you

12 very much.

13 Item fourteen is consideration of a revised

14 solid waste facility permit for the Tehachapi Sanitary

15 Landfill in Kern County.

16 Chris Deidrick will make the presentation.

17 MR. DEIDRICK: Thank you. This is agenda item

18 fourteen for the Tehachapi Sanitary Landfill.

19 The proposed change will involve a change in the

20 hours of operation. The current permitted hours of

21 operation are between 7:00 a.m. and 4:00 p.m. Monday

22 through Friday, and 8:00 a.m. and 12:00 p.m. on

23 Saturdays. The proposed permit will allow operations to

24 occur between 7:00 a.m. and 5:00 p.m. Monday through

25 Sunday.

Please note: These transcripts are not individually approved and reviewed for accuracy.

1 The local enforcement agency and Board staff
2 have made all necessary findings.
3 Staff have reviewed the post permit and
4 supporting documentation and found them necessary, or
5 found them to be acceptable. And staff recommends the
6 Board adopt Resolution number 2001-328 concurring in the
7 issuance of solid waste facility permit number
8 15-AA-0062.

9 BOARD CHAIR MOULTON PATTERSON: Thank you.

10 Questions? Motion?

11 Mr. Medina.

12 BOARD MEMBER MEDINA: Yes, I just note here from
13 the compliance history at the briefing that the CEQA
14 issues had been resolved?

15 MR. DEIDRICK: Yes, they have.

16 BOARD MEMBER MEDINA: Thank you.

17 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
18 you.

19 BOARD MEMBER JONES: Madam Chair.

20 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

21 BOARD MEMBER JONES: I'll move adoption of
22 Resolution 2001-328, consideration of a revised solid
23 waste facility permit for the Tehachapi Sanitary Landfill
24 in Kern County.

25 BOARD MEMBER MEDINA: Second.

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1 BOARD CHAIR MOULTON-PATTERSON: Okay. We have a

2 motion by Mr. Jones, seconded by Mr. Medina.

3 Please call the roll.

4 BOARD SECRETARY FARRELL: Jones?

5 BOARD MEMBER JONES: Aye.

6 BOARD SECRETARY FARRELL: Medina?

7 BOARD MEMBER MEDINA: Aye.

8 BOARD SECRETARY FARRELL: Paparian?

9 BOARD MEMBER PAPARIAN: Aye.

10 BOARD SECRETARY FARRELL: Moulton-Patterson?

11 BOARD CHAIR MOULTON-PATTERSON: Aye.

12 BOARD MEMBER JONES: Madam Chair.

13 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

14 BOARD MEMBER JONES: Just procedurally, we've

15 gotten two revised items up here at the dais. If there,

16 I know it's got to be a grammatical or just one little

17 issue but we get the entire package, but if they could at

18 least mark it so we know where the difference is between

19 the one we've been working off of and the revised one

20 when we get it.

21 MR. DEIDRICK: Do they have underlined

22 strikeouts?

23 MS. NAUMAN: We've been trying to prepare them

24 in strikeouts and underline. And I apologize for the

25 lateness in getting those to you, we do try to transmit

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1 them as soon as we can and usually by e-mail, but with

2 yesterday's events we were not able to.

3 BOARD MEMBER JONES: No; and I appreciate that,

4 and this one is struck out, but it's just like we're

5 getting ready to make a vote, and it's obvious that you

6 guys changed what the issues were --

7 MS. NAUMAN: And under normal

8 circumstances --

9 BOARD MEMBER JONES: And we're just trying to

10 figure out where it was.

11 MS. NAUMAN: We'll do that and we'll kind of

12 highlight those today and strive to get those to you in

13 advance of the Board meeting.

14 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank you

15 very much.

16 MS. NAUMAN: Item fifteen is consideration of a

17 revised solid waste facility permit for the East Los

18 Angeles Recycling and Transfer Station in Los Angeles

19 County.

20 Mark De Bie will present.

21 MR. de BIE: Thank you, Julie. Mark De Bie with

22 Permitting and Inspection.

23 This revised permit will allow an increase of

24 daily tonnage from 350 tons per day to 700 tons per day.

25 It also updates the owner and operator

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1 referenced in the permit.

2 And it also reduces the number of days that its

3 open, and indicates that the facility is not opened on

4 Sundays.

5 When the pre-permit inspection was done by state

6 staff, a number of state minimum standard violations as

7 well as a notation of terms and conditions of the,

8 violation of the permit were noted that was relevant to

9 the tonnage.

10 We have information from the LEA that they

11 conducted a follow-up inspection and have confirmed that

12 the operator has rectified the problems that were noted

13 in the state inspection, and was able to determine that

14 the facility is in complete compliance with state minimum

15 standards; and with the revision of the permit will be in

16 compliance with the permit issue relative to the tonnage.

17 The LEA representative is present to answer any

18 questions you have about past violations or the

19 compliance history in general.

20 With the resolution of the state minimum

21 standard violations, staff is now able to make all of the

22 required findings.

23 At the briefing there was some questions

24 relative to locations of nearby residents, and the LEA as

25 well as staff have provided me with additional detail.

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1 There are a number of residences nearby. It's the
2 assessment of staff as well as the LEA that they're not
3 directly impacted by the potential increase in traffic
4 relative to the increase in tonnage because they're not,
5 the majority of them are not on the direct haul road
6 leading into the facility.

7 Also, there was some question about opposition.

8 And when this project did go through the local land use
9 process there were a number of individuals that gave
10 testimony. And it's our understanding that the project
11 was modified during the local land use process to address
12 those concerns.

13 So we anticipate that the, with those changes
14 that the concerns were mitigated because we have not
15 heard any additional concerns through the LEA or directly
16 to Board staff.

17 Relative to the number of vehicles not being
18 noted in the permit, we connected with the LEA again and
19 they directed us to, in some correspondence relative to a
20 past permit action in 1996 where a similar question came
21 up, and they indicated and reiterated that it continues
22 to be their current policy that unless there is a reason
23 to include a vehicle limit in the permit, they would not
24 include a maximum value in the permit.

25 The reasons that they indicated that they might

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1 include it is that another permit had that restriction;
2 in order to be consistent with that permit they would
3 include. For example, if the land use permit had a
4 maximum vehicle count, they would include that number in
5 their permit to be consistent.

6 Or if they saw independently a reason to limit
7 the number of vehicles, they would utilize their
8 discretion in putting that number in.

9 Relative to this facility, neither the use
10 permit or any other permit has a restriction on vehicles,
11 and the LEA did not see an independent need to put a
12 vehicle number in this one. So this permit does not have
13 a restriction on vehicles.

14 It does, however, have a restriction on maximum
15 tonnage, which has an indirect result of number of
16 vehicles going into the facility.

17 I think that answers all of the questions that
18 the Board had during the briefing.

19 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.

20 De Bie. I had a number of questions at the briefing on
21 the location and all, and those were answered, and Ms.
22 Sanborn visited the site, so most of my questions were
23 answered.

24 I still, and then also the letter from
25 Supervisor Molina answered some of my questions.

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1 But I still wonder, is this an option of the LEA
2 whether they can or can't put limits on traffic? I don't
3 understand.

4 MR. de BIE: The LEA writes the permit and they
5 have the discretion to include whatever conditions or
6 limits they wish.

7 Relative to vehicle numbers, it's sort of a gray
8 area. If you look at, for example, state minimum
9 standards, there isn't direct responsibility for the LEA
10 to regulate vehicle numbers unless, again, they see a
11 reason to do that.

12 Reasons might be that without a limit there
13 might be stacking of vehicles in access roads, and so
14 they would want to put a limit in that case.

15 There may be some impacts resulting from a flow
16 of a number of vehicles through the site itself, and how
17 much, how much traffic the actual site could carry in
18 terms of its capacity.

19 So those are just a few examples of when the LEA
20 may use their discretion. But I believe the LEA, with
21 their ability to write the permit and the appropriate
22 terms and conditions to protect public health, safety,
23 and the environment, could include limits or choose not
24 to.

25 BOARD CHAIR MOULTON-PATTERSON: Thank you. With

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1 that, we do have a speaker.

2 Mr. Mark Aprea, did you --

3 BOARD MEMBER PAPARIAN: Madam Chair, could I

4 just follow up on that point?

5 BOARD CHAIR MOULTON PATTERSON: I'm sorry.

6 Sure.

7 BOARD MEMBER PAPARIAN: It seems like we may

8 want to provide some guidance on this issue of vehicle

9 limits, you know. I can see the potential and it looks

10 like, to me like it may even exist, for some

11 inconsistency between one LEA and another. And I think

12 that that's not really fair to the public or to the

13 operators.

14 We're going to be dealing with another permit in

15 a few minutes where someone has been violating their

16 terms and conditions for a while, presumably because of

17 vehicle limits being exceeded. You know, if that

18 facility was in Los Angeles they might not have had any

19 violations at all.

20 MS. NAUMAN: Your point is well taken and we

21 certainly can provide that direction. The permit that

22 you see before you is really a template for the LEA5 to

23 utilize. So if we want specific areas to be addressed we

24 can provide that direction and we can do that through the

25 new toolbox that you're familiar with to show them, you

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1 know, how to do that, reasons why, and again what the

2 Board's expectations are.

3 BOARD MEMBER PAPARIAN: Okay. Thank you, and

4 Mr. Aprea that's not a reflection on the facility itself,

5 that's more of a general comment.

6 MR. APREA: So Madam Chair, members of the

7 Board, Mark Aprea representing Republic Services.

8 I'm here to really answer any questions that you

9 have. I know I've spoken with most of you, if not all of

10 you and your staffs, and I know that there were some

11 questions as of the date of the Board briefing, and so I

12 just wanted to make sure that I was available to address

13 any questions that you had.

14 BOARD CHAIR MOULTON-PATTERSON: Thank you, we

15 appreciate that.

16 Without seeing any more questions, do I have a

17 motion?

18 BOARD MEMBER JONES: Madam Chair.

19 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

20 BOARD MEMBER JONES: I'd like to move adoption

21 of Resolution 2001-329, consideration of revised solid

22 waste facility permit for the East Los Angeles Recycling

23 and Transfer Station in L.A. And there are, within the

24 resolution there is a couple of options.

25 "Whereas the Board finds the proposed permit is

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1 consistent with the standards adopted by the Board."

2 And then on the next page, "Now therefore be it

3 resolved that the Board concurs."

4 BOARD MEMBER MEDINA: Second.

5 BOARD CHAIR MOULTON-PATTERSON: Thank you.

6 Motion by Mr. Jones, seconded by Mr. Medina.

7 Please call the roll.

8 BOARD SECRETARY FARRELL: Jones?

9 BOARD MEMBER JONES: Aye.

10 BOARD SECRETARY FARRELL: Medina?

11 BOARD MEMBER MEDINA: Aye.

12 BOARD SECRETARY FARRELL: Paparian?

13 BOARD MEMBER PAPARIAN: Aye.

14 BOARD SECRETARY FARRELL: Moulton-Patterson?

15 BOARD CHAIR MOULTON-PATTERSON: Aye.

16 MS. NAUMAN: Thank you. And Madam Chair, before

17 I move on to the next item I just want to clarify that it

18 is the Board's direction that staff direct LEAs through

19 the toolbox and other communication to include vehicle

20 trip limits in all permits, correct?

21 BOARD CHAIR MOULTON-PATTERSON: Yes.

22 MS. NAUMAN: Thank you. Item sixteen is

23 consideration of a revised solid waste facility permit

24 for the Santa Maria Landfill in Santa Barbara County.

25 Willie Jenkins will make the presentation.

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1 BOARD MEMBER JONES: Madam Chair.

2 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

3 BOARD MEMBER JONES: Before we go on with that

4 can I just ask a question? The, on this last one, I have

5 no problem with us directing them to do that, but some of

6 the, we saw it in Cupertino or in Los Gatos; we've seen

7 it in other places where through the general plan they

8 look at waste sheds and roadways to see what they can

9 handle.

10 And now this facility is located on a, on a

11 really busy industrial roadway, so the impact of who

12 makes a right turn as to, into this facility or into the

13 next one which could be a warehouse, may have been

14 something that the planning department looked at and felt

15 that there wasn't a need to put a number.

16 I don't have any problem with us saying, you

17 know, try to put a number. But clearly in some of these

18 areas where they look at their general plan as to what

19 the loads can be, and the facility is limited by what the

20 tonnage is, is there a, are we going, are we going to

21 give some direction?

22 You know, if they have public and truck traffic

23 in a region like L.A. where waste gets diverted, if

24 Puente Hills puts a flag up at 10:00 in the morning, then

25 that means that no waste can go there, so people start

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1 diverting waste extremes to other areas.

2 We need to be, we need to think some, or to get

3 some information from planning departments in that

4 Southern California region to see what they're thinking

5 is, Madam Chair, just, you know, before we just

6 arbitrarily -- I have no problem with giving guidance on

7 putting a limit, but I think we also need to know what

8 the conditions are within the planning divisions of those

9 jurisdictions, because they're looking at the movement of

10 roadways and things like that that might help us set

11 those guidelines.

12 BOARD CHAIR MOULTON-PATTERSON: That's a good

13 point. So we --

14 LEGAL COUNSEL TOBIAS: Madam Chair, may I

15 interject?

16 BOARD CHAIR MOULTON-PATTERSON: Yes.

17 LEGAL COUNSEL TOBIAS: Maybe it would be better

18 if the division came back to the Board with a discussion

19 on this that would basically talk about the different

20 instances of how this comes up and then what the Board's

21 ability is to deal with the traffic numbers?

22 BOARD CHAIR MOULTON PATTERSON: Thank you Ms.

23 Tobias.

24 Ms. Nauman.

25 MS. NAUMAN: Well, I think we can take that as a

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1 suggestion and attempt to work with the LEAs and see if

2 there is a kind of meeting of the minds. And if there

3 are issues that we still think we need the Boards

4 direction on, we can come back to you.

5 But I think we can probably with the LEA5 and

6 advise them to work with their local planning departments

7 to have some consistency in the numbers.

S So we will come back.

9 BOARD CHAIR MOULTON-PATTERSON: Fair enough,

10 thank you. Yes.

11 BOARD MEMBER JONES: Thank you, Madam Chair.

12 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.

13 Jones.

14 MR. JENKINS: I'm Willie Jenkins of the

15 Permitting and Inspection Branch. Also here today for

16 the item are Mike Schmaeling and Dave Brummond of the

17 Santa Barbara County, and in addition John Zhao and Paul

18 Karp of the City of Santa Maria.

19 Agenda item 16 is for consideration of a revised

20 solid waste facility permit for Santa Maria Landfill.

21 This landfill serves the City of Santa Maria and the

22 communities of Los Alamos, Guadalupe, Casmalia, Sisquoc,

23 Gary, Orcutt, and other unincorporated areas of the

24 county.

25 The proposed permit would increase the permitted

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- 1 boundary from 290 to 290.88 acres.
- 2 Increase the disposal footprint from 186 to
- 3 247.16 acres.
- 4 Increase the maximum elevation from 304 feet to
- 5 360 feet above mean sea level for the future area.
- 6 Change the maximum depth from 25 feet below
- 7 ground surface to 265 feet above mean sea level for the
- 8 future use area only.
- 9 Increase in site capacity from 10,888,178 cubic
- 10 yards to 13,998,400 cubic yards.
- 11 Increase the vehicle peak from 415 to 525
- 12 vehicles per day.
- 13 Change the estimated closure date from 2013 to
- 14 2017.
- 15 Approve the use of hydrocarbon impacted soils as
- 16 a foundation layer, and also use it as a daily cover for
- 17 the future area.
- 18 Conduct a land exchange involving three, a total
- 19 of 3.44 acres with an adjoining landowner.
- 20 The waste discharge requirements were adopted on
- 21 May 18th, 2001. Also in the provisions of the waste
- 22 discharge requirements, the operator is required to get
- 23 approval of the hydrocarbon on soils management disposal
- 24 plan by February 28th, 2002. And this requires the
- 25 approval of all governing agencies over the landfill

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1 prior to use or implementation.

2 The Board staff has determined that all the
3 requirement of the proposed revised permit have been
4 fulfilled, but Mark de Bie would like to provide some
5 information on CEQA.

6 MR. de BIE: Thank you, Willie. Mark de Bie
7 with Permitting and Inspection. Late breaking news.

8 The one lingering issue with CEQA was the
9 application of an exemption for the land acquisition or
10 land swap basically. The applicant had made a finding
11 that it was exempted from CEQA under a conditional
12 exemption, I believe number five which speaks to changes
13 in permitted boundary and grading and that sort of thing.
14 And the LEA also made a finding that the land
15 swap was exempt.

16 The one piece that was missing was confirmation
17 from your staff, Board staff that the exemption would be
18 appropriate for that aspect of the project.

19 And I just got the information that that has
20 been made, that we did our independent assessment and are
21 able to verify that the exemption would be appropriate
22 for that part of the project.

23 BOARD CHAIR MOULTON PATTERSON: Thank you, Mr.
24 De Bie.

25 MR. JENKINS: So in conclusion, staff recommends

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1 that the Board adopt Board Resolution number 2001-330
2 concurring with the issuance of the solid waste facility
3 permit number 42-AA-0016.

4 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank you very much,
5 Mr. Jenkins. And I do note that members from the City of
6 Santa Maria are here to answer questions. personally visited
7 the site and I think they're really working hard and trying
8 very hard to greatly reduce violations. I'm very pleased
9 with it.

10 Mr. Paparian.

11 BOARD MEMBER PAPARIAN: Thank you. I had a couple of
12 questions. Did the Water Board put a height limit in their
13 permit on this, in their WDR?

14 MR. JENKINS: For the elevation?

15 BOARD MEMBER PAPARIAN: Yes.

16 MR. JENKINS: Yes, 360 feet.

17 BOARD MEMBER PAPARIAN: So their elevation matches our
18 elevation?

19 MR. JENKINS: Yes, it does.

20 BOARD MEMBER PAPARIAN: Okay, good.

21 MR. JENKINS: Yes.

22 BOARD MEMBER PAPARIAN: Thank you. And there had been a
23 problem, and I've read about it in the past with this
24 facility, with trash outside the permitted boundary. Does
25 this land swap address that?

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1 MR. JENKINS: There was a problem with litter

2 outside the boundary before, they haven't had a problem

3 with that, the litter.

4 MR. de BIE: Willie, I think he's asking about

5 the actual disposal of waste outside the permitted

6 boundary, the historical, not litter.

7 BOARD MEMBER PAPARIAN: Right. And I'm

8 wondering if this, if this land swap is what takes care

9 of that?

10 MR. de BIE: Yes, that was the whole purpose of

11 the land swap --

12 BOARD MEMBER PAPARIAN: Okay.

13 MR. de BIE: -- was to incorporate that waste

14 that was placed historically outside the permitted

15 boundary within the permitted boundary; and then also to

16 amend the permit as well as the closure requirements to

17 address that three acres.

18 BOARD MEMBER PAPARIAN: Okay. So the footprint

19 for the permit and then for the closure will include that

20 area where trash had been put outside the boundary?

21 MR. de BIE: It's now recognized as part of the

22 disposal footprint, permitted area as well as what's

23 required to be closed.

24 BOARD MEMBER PAPARIAN: Okay. And then another

25 question is gas monitoring, is there gas monitoring going

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1 around the whole boundary of this facility?

2 MR. JENKINS: Yes, there is.

3 BOARD MEMBER PAPARIAN: And is that showing

4 anything or no?

5 MR. JENKINS: As far as I know, let me get Mike

6 up here, he can explain better the gas monitoring.

7 MR. SCHMAELING: Mike Schmaeling, Santa Barbara

8 County LEA. Hello Board members, it's a pleasure to see

9 you all again.

10 Yeah, the gas monitoring has been successful.

11 There was a period of time about a year and a half ago

12 when they were doing road enclosure that they had to shut

13 down the extraction wells close to the scale house, and

14 so I was given violations at that period of time because

15 the probes were exceeding allowable limits. But now that

16 they've turned them back on over a year ago they're all

17 back down to zero.

18 We monitor those fairly closely.

19 BOARD MEMBER PAPARIAN: And then there's, the

20 area up along the river there are monitoring wells up

21 there too?

22 MR. SCHMAELING: When we get close to the

23 inactive area they're like every five hundred feet,

24 they're really close together.

25 BOARD MEMBER PAPARIAN: And so the inactive area

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1 stopped receiving waste quite a while ago, right?

2 MR. SCHMAELING: Yes, back in the late fifties, early sixties.

4 BOARD MEMBER PAPARIAN: And is that subject to a

5 closure plan now?

6 MR. SCHMAELING: Yes, as a matter of fact the

7 WDR's require that a final closure plan will be submitted

8 by the end of this year.

9 BOARD MEMBER PAPARIAN: So a final closure plan

10 by the end of this year and then at that point we'll get

11 a date certain for final closure?

12 MR. SCHMAELING: Yes.

13 BOARD MEMBER PAPARIAN: Okay. Thank you.

14 BOARD CHAIR MOULTON-PATTERSON: Thank you.

15 BOARD MEMBER JONES: Madam Chair.

16 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

17 BOARD MEMBER JONES: I'm going to move this but

18 I would just like to make a couple of comments. I like

19 you, I also went down and looked at the facility. And

20 this was a tough one to get through three years ago when

21 it was up here for a permit revision.

22 And for all of the Board members who wonder

23 about the relationship between LEAs and cities and

24 counties and operators, this may be a classic example of

25 push and shove and pull and, you know, whatever.

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1 So while the relationship may not be the most
2 ideal in the world, I hope it becomes the most ideal in
3 the world because that site is better than it has ever
4 been, and I think it has a lot to do with the LEA, and a
5 lot to do with the operator complying. And I think you
6 both need to be commended because that was a disaster
7 waiting to happen, and would be costing the city a heck
8 of a lot more money, as well as the people of California,
9 than what it's turned out to be.

10 So with that I will move adoption of Resolution
11 2001-330, consideration of a revised solid waste facility
12 permit for the Santa Maria Landfill in Santa Barbara
13 County. And on the whereases, "The Board finds the
14 proposed permit is consistent with CEQA."

15 And I think you said that the most recent
16 inspection was passed, right?

17 MR. de BIE: (Nodded head.)

18 BOARD MEMBER JONES: So, "Whereas the most
19 recent CIWMB LEA inspection has documented no violations
20 of state minimum standards."

21 BOARD MEMBER MEDINA: Second that, Madam Chair.

22 BOARD CHAIR MOULTON-PATTERSON: Okay. Motion by
23 Mr. Jones, seconded by Mr. Medina.

24 Please call the roll.

25 BOARD SECRETARY FARRELL: Jones?

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1 BOARD MEMBER JONES: Aye.

2 BOARD SECRETARY FARRELL: Medina?

3 BOARD MEMBER MEDINA: Aye.

4 BOARD SECRETARY FARRELL: Paparian?

5 BOARD MEMBER PAPARIAN: Aye.

6 BOARD SECRETARY FARRELL: Moulton-Patterson?

7 BOARD CHAIR MOULTON-PATTERSON: Aye. And I too

8 would like to add my thanks to the LEA to the city, and

9 to our staff for working together on this.

10 Thank you. We're going to have a ten minute

11 break now.

12 (Thereupon there was a brief recess.)

13 BOARD CHAIR MOULTON-PATTERSON: I'd like to call

14 the meeting back to order. And we're on item number 17

15 from permits.

16 Mr. Paparian, did you have any ex-partes?

17 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.

18 I spoke with John Cupps about item 17; George Larson

19 about new technologies that convert plastics to other

20 uses, and some of the related legislation there; and Mike

21 Schmaeling, just following up on that last item before

22 the break.

23 BOARD CHAIR MOULTON-PATTERSON: Thank you.

24 Mr. Medina?

25 BOARD MEMBER MEDINA: None to report.

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1 BOARD CHAIR MOULTON-PATTERSON: I have none.

2 Mr. Jones?

3 BOARD MEMBER JONES: Just Steve Johnson from

4 Monterey HPA and Mike Schmaeling and the folks from Santa

5 Maria, I just congratulated them on working together.

6 That was it.

7 BOARD CHAIR MOULTON-PATTERSON: Okay, thank you.

8 Ms. Nauman, item 17.

9 MS. NAUMAN: Item 17 is consideration of a

10 revised solid waste facility permit for Chicago Grade

11 Landfill, San Luis Obispo.

12 Jenifer Kiger will make the presentation.

13 MS. KIGER: Changes have been made to the agenda

14 item since it was published and a. revised attachment

15 three, the facility map, should be available in your

16 packet and at the back of the room.

17 At the compliance history on the bottom of page

18 one under 1998, there's a change that should read, five

19 SMS violations. And then 1991 the one state minimum

20 standard violation should be struck. The operator had us

21 verify the compliance history and those changes when a

22 data error was found, and then one state inspection had

23 not been entered into SWIS.

24 The proposed permit is for revision of the

25 September, 1999 solid waste facility permit for Chicago

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1 Grade Landfill. The site is currently own by Chicago

2 Grade Landfill and Recycling and operated by Chicago

3 Grade Landfill, Incorporated.

4 The proposed permit identifies a change in the

5 permitted traffic limits by increasing the traffic limit

6 to 240 vehicles per day from 155 vehicles per day.

7 Issuance of the permit will correct the current

8 violation of PRC Section 44014(b), operators compliance

9 with the terms and conditions of the solid waste facility

10 permit for exceeding the permitted traffic limits.

11 Staff reviewed the proposed permit and

12 supporting documentation and found that all requirements

13 had been met for this item and it's acceptable for

14 consideration by the Board.

15 In conclusion, staff recommend that the Board

16 adopt Resolution number 2001-331 concurring in the

17 issuance of solid waste facility permit number

18 40-AA-0008.

19 The LEA is available if you have any questions.

20 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank

21 you. And also Mr. John Cupps representing owner operator

22 is available for questions. Is that right, Mr. Cupps?

23 MR. CUPPS: That's correct.

24 BOARD CHAIR MOULTON-PATTERSON: Thank you.

25 Questions?

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1 BOARD MEMBER JONES: Madam Chair.

2 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

3 BOARD MEMBER JONES: I'll move adoption of

4 Resolution 2001-331, consideration of a revised solid

5 waste facility permit for the Chicago Grade Landfill in

6 San Luis Obispo, and that's it.

7 BOARD MEMBER MEDINA: Second that, Madam Chair.

8 BOARD CHAIR MOULTON-PATTERSON: Okay. We have a

9 motion by Mr. Jones, seconded by Mr. Medina.

10 Please call the roll.

11 BOARD SECRETARY FARRELL: Jones?

12 BOARD MEMBER JONES: Aye.

13 BOARD SECRETARY FARRELL: Medina?

14 BOARD MEMBER MEDINA: Aye.

15 BOARD SECRETARY FARRELL: Paparian?

16 BOARD MEMBER PAPARIAN: Aye.

17 BOARD SECRETARY FARRELL: Moulton-Patterson?

18 BOARD CHAIR MOULTON-PATTERSON: Aye. Number

19 18.

20 MS. NAUMAN: Item 18 is consideration of award

21 grants for the farm and ranch solid waste cleanup and

22 abatement grant program.

23 And Georgianne Turner will make the

24 presentation.

25 MS. TURNER: Staff have received, reviewed, and

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1 are recommending approval for three grants to Nevada
2 County, Solano County, and Riverside. And this is for
3 our first quarter of fiscal year 2001-2002.

4 These grants will be requesting a total of
5 \$80,000 to clean up eight sites within these
6 jurisdictions.

7 In, all the grant applications meet the eligible
8 requirements set forth in statute and regulation, and
9 therefore Board staff is recommending adoption of
10 Resolution 2001-332.

11 And I'd be happy to answer any questions.

12 BOARD CHAIR MOULTON-PATTERSON: Thank you.

13 Questions?

14 BOARD MEMBER JONES: Madam Chair.

15 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

16 BOARD MEMBER JONES: There was a song somebody
17 used to sing around here, you know, use a train, lose a
18 grant. I know we can't do that, but we do have to talk
19 about the exportation of waste and where we're going to
20 collect our fees.

21 And I'll just bring to the Board's attention
22 that the Nevada County request is important to do, but
23 their waste travels long distances to other states for
24 ultimate disposal. So we can't exclude 'em by law, I
25 don't think, but it's an example of the issue. So --

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1 BOARD CHAIR MOULTON-PATTERSON: Thank you for

2 pointing that out.

3 BOARD MEMBER PAPARIAN: I'm sure they'll thank

4 the good people of Los Angeles and San Francisco and

5 elsewhere for making these funds available.

6 BOARD MEMBER JONES: I'm sure they will.

7 Madam Chair.

8 BOARD CHAIR MOULTON-PATTERSON: Thank you. Mr.

9 Jones.

10 BOARD MEMBER JONES: I'll move adoption of

11 Resolution 2001-332, consideration of the award of the

12 grants for the farm and ranch solid waste cleanup and

13 abatement programs to Nevada County, Solano, and

14 Riverside County.

15 BOARD MEMBER MEDINA: Second that.

16 BOARD CHAIR MOULTON-PATTERSON: Okay. Motion by

17 Mr. Jones, seconded by Mr. Medina.

18 Please call the roll.

19 BOARD SECRETARY FARRELL: Jones?

20 BOARD MEMBER JONES: Aye.

21 BOARD SECRETARY FARRELL: Medina?

22 BOARD MEMBER MEDINA: Aye.

23 BOARD SECRETARY FARRELL: Paparian?

24 BOARD MEMBER PAPARIAN: Aye.

25 BOARD SECRETARY FARRELL: Moulton-Patterson?

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1 BOARD CHAIR MOULTON-PATTERSON: Aye.

2 MS. NAUMAN: Madam Chair, we're now ready to

3 return to --

4 BOARD CHAIR MOULTON-PATTERSON: Ready for eight

5 and nine, and then we can finish up with permits?

6 MS. NAUMAN: That's correct. This will be item

7 eight, and I think Mark de Bie has the information you

8 requested.

9 BOARD CHAIR MOULTON-PATTERSON: Mr. De Bie.

10 MR. DE BIE: Thank you. My thanks to Georgianne

11 Turner as well as Virginia Rosales for getting on the

12 database and looking up these details for Mr. Medina.

13 And Mr. Medina, a personal apology for not

14 having it in front of me initially, we'll be better next

15 time, and I'll have the details that you need.

16 Relative to 29 Palms, the violations most

17 recently noted by the LEA were concerning training and

18 training records. The operator is required to maintain

19 records of training of all of their staff and placed that

20 data in the operating document, they had failed to do

21 that.

22 Also there were some violations noted relative

23 to submittal of updates to the closure plan, and those

24 have all been corrected at this time.

25 Going further back into 2000; again the training

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1 was noted, as well as concerns relative to load checking.
2 It was indicated that the staff not having or not having a
3 record that they were trained relative to load checking
4 and hazardous waste was a concern, and so those two were
5 linked. And so again they, all of the violations have been
6 corrected and staff is able to make all of the required
7 findings, and we'd recommend concurrence on the 29 Palms
8 permit.

9 BOARD CHAIR MOULTON-PATTERSON: Mr. Medina.

10 BOARD MEMBER MEDINA: Yes, thank you for that
11 information.

12 BOARD CHAIR MOULTON-PATTERSON: Okay. Do we have
13 a motion?

14 BOARD MEMBER JONES: Madam Chair

15 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

16 BOARD MEMBER JONES: I'll move adoption of Resolution 2001-
17 322, consideration of a revised solid waste facility
18 permit for the United States Marine Corps 29 Palms
19 disposal site in San Bernardino County.

20 BOARD MEMBER MEDINA: Second.

21 CHAIR MOULTON-PATTERSON: Okay. Motion by Mr. Jones,
22 seconded by Mr. Medina.

23 Please call the roll.

24 BOARD SECRETARY FARRELL: Jones?

25 BOARD MEMBER JONES: Aye.

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1 BOARD SECRETARY FARRELL: Medina?

2 BOARD MEMBER MEDINA: Aye.

3 BOARD SECRETARY FARRELL: Paparian?

4 BOARD MEMBER PAPARIAN: Aye.

5 BOARD SECRETARY FARRELL: Moulton-Patterson?

6 BOARD CHAIR MOULTON-PATTERSON: Aye. Okay item

7 nine.

8 MS. NAUMAN: Item nine is consideration of a

9 revised solid waste facility permit for Fort Irwin

10 Sanitary Landfill in San Bernardino County.

11 Mark de Bie.

12 MR. DE BIE: Thank you. The main change

13 relative to this permit is an increase in elevation as

14 well as an extension of the final closure date or

15 estimated final closure date.

16 Both the increase in elevation and the fact that

17 the facility is moving to a bale fill kind of operation,

18 also noting that the waste is only waste from the, from

19 the facility calculates into this very extended final

20 closure date indicated in the item.

21 Staff has reviewed all of the information and

22 find it consistent with the Board's requirements and are

23 able to make a recommendation to concur on this permit.

24 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank

25 you.

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1 Mr. Medina.

2 BOARD MEMBER MEDINA: Given that information,

3 Madam Chair, I'd like to move Resolution 2001-323

4 revised, consideration of a revised solid waste facility

5 permit for the Fort Irwin Sanitary Landfill, San

6 Bernardino County.

7 BOARD MEMBER JONES: Second.

8 BOARD CHAIR MOULTON-PATTERSON: Thank you. We

9 have a motion by Mr. Medina, seconded by Mr. Jones.

10 Please call the roll.

11 BOARD SECRETARY FARRELL: Jones?

12 BOARD MEMBER JONES: Aye.

13 BOARD SECRETARY FARRELL: Medina?

14 BOARD MEMBER MEDINA: Aye.

15 BOARD SECRETARY FARRELL: Paparian?

16 BOARD MEMBER PAPARIAN: Aye.

17 BOARD SECRETARY FARRELL: Moulton-Patterson?

18 BOARD CHAIR MOULTON-PATTERSON: Aye. Okay.

19 Thank you, Ms. Nauman, to you and your staff.

20 We'll go to Mr. Schiavo on Diversion, Planning,

21 and Local Assistance, number one.

22 MR. SCHIAVO: Okay. Good morning, Pat Schiavo

23 for the Diversion, Planning, and Local Assistance

24 Division.

25 Item number one is consideration of staff

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1 recommendation to change the base year to 1999 for the
2 previously approved source reduction and recycling
3 element in consideration of the 1997-'98 biennial review
4 findings for the source reduction recycling element and
5 household hazardous waste element; and consideration of
6 completion of compliance order IWMA BR 99-45 for the City
7 of Gonzales in Monterey County.

8 And Tabettha Wilimon will be making this
9 presentation.

10 MS. WILLMON: Good morning. As a result of its
11 compliance order, the City of Gonzales submitted a base
12 year change requesting a 76 percent diversion rate for
13 1999.

14 Staff's preliminary review indicated that 60
15 percent of the claimed diversion was from three
16 businesses. For this reason staff felt a site visit
17 should be conducted to verify this information. The
18 practice, this practice is consistent with the request of
19 the Board members to verify base year information.

20 As a result of the site visit, staff found that
21 there were discrepancies to the diversion amounts claimed
22 in the certification sheet. You can view these
23 discrepancies on attachment three of the agenda item.
24 Upon completion of the staff site visit and
25 verification, Board staff met with the city's

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1 representative and consultant and presented the results
2 of the site visit.

3 As a result of this meeting the consultant
4 acknowledged that some of the tonnage was misreported and
5 provided additional clarifying information regarding a
6 few of the diversion activities.

7 Staff reviewed this additional information, and
8 some of the tonnage was accepted and included. However,
9 some of the tonnage was not accepted due to remaining
10 inconsistencies and lack of convincing information.

11 The diversion study contains no statistical
12 extrapolations. The pounds per person per day for the
13 originally submitted study was 19.33. However, with
14 staff's revision the pounds per person per day is now
15 9.02 which appears reasonable.

16 Based upon staff's analysis and site visit
17 verification of the base year study, Board staff are
18 proposing a new base year diversion rate of 49 percent
19 for 1999 instead of the 76 percent diversion rate claimed
20 by the jurisdiction.

21 Staff is recommending option two of the agenda
22 item which would approve the revised base year change
23 with staff recommendations, accept the 1997-1998 biennial
24 review findings, and end the compliance order for the
25 city.

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1 Representatives from the city are present to

2 answer any questions.

3 This concludes my presentation. Thank you.

4 BOARD CHAIR MOULTON-PATTERSON: Thank you.

5 Questions?

6 Mr. Jones.

7 BOARD MEMBER JONES: Thanks, Madam Chair. This

8 is, in the interest of time I won't go into it that much,

9 but I will say that I'm glad that staff went down there.

10 I've got no beef with the City of Gonzales, but

11 it is alarming when we look at the amount of tonnages

12 that aren't going to be allowed, and probably sent the

13 message that we need to be, your efforts need to be, you

14 need to continue your efforts in checking on a lot of

15 these, which I know that you already plan to do.

16 We're looking at in excess of 12,000 tons that's

17 not being allowed, and this is a, this is a system that

18 relies on -- counting garbage ain't brain surgery, but it

19 sure as heck is a higher level than this.

20 And I'd like to get some information at some

21 point from our legal counsel as to what our steps are.

22 hate seeing a city manager stuck out to dry when he's

23 signing an affidavit believing everything in that

24 document is true. Clearly he had to believe that

25 everything was true to get paid for services to, that he

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1 should be able to rely on.

2 So I think we need to get some explanation at

3 some point from our legal counsel as to what our remedies

4 are. This clearly is problematic for the integrity of AB

5 939, and it's clearly a problem for cities and counties

6 that have to listen to our policy decisions and try to

7 comply and end up with disputed items.

8 I know we take this very seriously. I know all

9 the Board members take it seriously, and I would hope

10 that we will take whatever steps we have to, Ms. Tobias,

11 Mr. Block, to figure out what our remedies are.

12 I know Mr. Schiavo and Mr. Block worked hard on

13 that signature page to try to give us a level, and I

14 think we do have a level, but I don't think it's the city

15 that's at fault here; although they may be at risk,

16 they're not at fault.

17 So we're going to have to figure that out I

18 think, Madam Chair.

19 BOARD CHAIR MOULTON-PATTERSON: Thank you for

20 bringing that up, and I certainly agree with you.

21 BOARD MEMBER PAPARIAN: Madam Chair.

22 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian.

23 BOARD MEMBER PAPARIAN: I wonder if we might

24 hear if there's, if counsel has given any thought since

25 Mr. Jones brought up the question of legal options.

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1 MS. WALZ: Madam Chair. since this is a private
2 party which is in business that we are looking at, there
3 is a possibility of bringing an unlawful business
4 practice action under the Business and Professions Code.
5 But as you say, we wanted to avoid penalizing
6 the city that was acting in good faith, and you feel that
7 the party at fault is the business entity, there is
8 action under the Business and Professions Code, it's
9 called unlawful business practices where they make
10 misrepresentations, or they induce misrepresentations of
11 law.

12 BOARD CHAIR MOULTON-PATTERSON: Thank you, Ms.

13 Walz.

14 Ms. Tobias.

15 CHIEF LEGAL COUNSEL TOBIAS: We can look into
16 this and bring something back to the Board. We did look
17 at some of the options to deal with the city, but we
18 haven't looked at what we can do with private parties, so
19 we can do that and get back to you.

20 BOARD CHAIR MOULTON-PATTERSON: Thank you.

21 BOARD MEMBER JONES: Thanks, Madam Chair. I'll
22 do this quick because I know we've got a big agenda.
23 We've got to figure out a way to go where the problem is.
24 So Madam Chair --

25 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

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1 BOARD MEMBER JONES: -- if members don't mind,
2 I'll move Resolution 2001-342 which is the consideration
3 of staff recommendation to change the base year to 1999
4 for the previously approved source reduction and
5 recycling element; consideration of the 1997-1998
6 biennial review findings for the source recycling element
7 and household hazardous waste element; and consideration
8 of completion of compliance order IWMA BR 99-45 for the
9 City of Gonzales using the staff numbers of 49 percent.

10 BOARD MEMBER MEDINA: Second that.

11 BOARD CHAIR MOULTON-PATTERSON: Thank you.

12 Motion by Mr. Jones, seconded by Mr. Medina.

13 Please call the roll.

14 BOARD SECRETARY FARRELL: Jones?

15 BOARD MEMBER JONES: Aye.

16 BOARD SECRETARY FARRELL: Medina?

17 BOARD MEMBER MEDINA: Aye.

18 BOARD SECRETARY FARRELL: Paparian?

19 BOARD MEMBER PAPARIAN: Aye.

20 BOARD SECRETARY FARRELL: Moulton-Patterson?

21 BOARD CHAIR MOULTON-PATTERSON: Aye. Okay.

22 Number two.

23 MR. SCHIAVO: Item number two is consideration
24 of the proposed AB 75 model annual report format to be
25 used by state agencies or large state facilities in

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1 submitting annual reports to the Board by April 1st, 2002

2 and each year thereafter.

3 Trevor O'Shaughnessy will be making this

4 presentation.

5 MR. O'SHAUGHNESSY: Good morning, Madam Chair

6 and members of the Board. My name is Trevor

7 O'Shaughnessy of the AB 75 implementation program.

8 Before I begin, based on staff's briefing we had

9 with you earlier this week, a minor edit was made to the

10 model plan and that should have been handed out to you.

11 If you go to page three, last column, last

12 paragraph, data retention and documentation, that's where

13 the minor edits were made.

14 "This document would serve all

15 state agencies and facilities in

16 maintaining compliance with AB 75 as

17 well as providing consistent data

18 compilation for the Integrated Waste

19 Management Board and its

20 implementation of AB 75."

21 In the essence of time and to maintain your

22 agenda, that would conclude my presentation. If you have

23 any questions, I'm available.

24 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.

25 O'Shaughnessy. Questions? Okay. I don't think we have

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1 any questions, but we need a quorum to vote so we'll corns

2 back to this.

3 Item three.

4 MR. SCHIAVO: Item number three is consideration

5 of action on the submittal of Integrated Waste Management

6 plans as required by AB 75 that have been deemed

7 incomplete for the following state agencies and large

8 state facilities.

9 BOARD CHAIR MOULTON-PATTERSON: Excuse me, I'm

10 sorry, Mr. Jones is back so let's finish two.

11 BOARD MEMBER PAPARIAN: Madam Chair.

12 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian.

13 BOARD MEMBER PAPARIAN: I'll move Resolution

14 2001-344 related to the AB 75 model annual report format.

15 BOARD CHAIR MOULTON-PATTERSON: And I'll second

16 that. A motion by Mr. Paparian, seconded by Moulton-

17 Patterson, Resolution 2001-344.

18 Please call the roll.

19 BOARD SECRETARY FARRELL: Jones?

20 BOARD MEMBER JONES: Aye.

21 BOARD SECRETARY FARRELL: Medina?

22 BOARD MEMBER MEDINA: Aye.

23 BOARD SECRETARY FARRELL: Paparian?

24 BOARD MEMBER PAPARIAN: Aye.

25 BOARD SECRETARY FARRELL: Moulton-Patterson?

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1 BOARD CHAIR MOULTON-PATTERSON: Aye. Now number

2 three, thank you.

3 MR. SCHIAVO: Consideration of action on the

4 submittal of Integrated Waste Management plans as

5 required by AB 75 that have been deemed incomplete for

6 various reasons. And there's a number of state agencies

7 that are listed on this item. And this presentation will

8 be made by Phil Morales.

9 MR. MORALES: In the interest of time just to go

10 over the information that is here, briefly noted that we

11 did have three of the community colleges, Monterey, Rio

12 Hondo, and Copper Mountain College did submit some

13 additional information to us prior to the Board meeting,

14 however staff has not had an opportunity to review its

15 completeness.

16 Also, Hartnell Community College also sent us a

17 letter. I spoke with them the other day noting that they

18 would submit the documentation we were requesting within

19 the next 45 days, the information.

20 And the reason these agencies are before you is

21 because we have incomplete data regards to the completion

22 of their Integrated Waste Management plan. The majority

23 of them have not submitted parts three and four which is

24 basically the bulk of the plan which gives us the

25 numbers, the programs, and the projection rates.

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1 Most have been contacted numerous times. We
2 have spoken with the recycling coordinators and it has
3 been to no avail. I believe, in fact, we notified them
4 that we would have this as a public hearing and it was
5 noticed.
6 What we recommend is the implementation of
7 Public Resources Code option number one. And that Public
8 Resources Section for the record is Public Resource Code,
9 Section 42920(b) (3) provides that if a state agency has
10 not submitted an adopted Integrated Waste Management plan
11 or if the CIWMB has disapproved the IWMP, then the model
12 IWMP as revised by CIWMB, in consultation with the
13 agency, shall take effect and shall have the same force
14 and effect as if adopted by the state agency.
15 So our recommendation is to adoption of option
16 one, and approve a resolution, approve Resolution
17 2001-345.
18 It is also my understanding that we do have a
19 representative from Merritt College who is here to answer
20 any questions that you may have.
21 That concludes staff's presentation.
22 BOARD CHAIR MOULTON-PATTERSON: Thank you. I
23 have one question. Like, for example, the Chancellor's
24 Office. Are we sure we're getting the message where it
25 should be? I mean, I certainly think we should use

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1 whatever means we have; but I just want to make sure that

2 the right people know that they're not submitting this.

3 MR. MORALES: Just for your, we have maintained,

4 as you might recall at a previous Board meeting staff

5 noted that we do have a database that we keep records.

6 We have a part of it that is for staff use only that

7 basically it is a documentation tracking system.

8 Just for the record, the college, Chancellor's

9 Office. On 7/19 of last year we notified them that their

10 plan was incomplete.

11 On 3/30 of this year we notified them again that

12 parts three and four were missing.

13 On 8/7 we notified them again of the same

14 situation.

15 On 8/30 we notified them again and contacted

16 them.

17 We then notified them on 9/4 that we would

18 provide any technical assistance, however if they did not

19 provide the information we would go forward with this

20 agenda item.

21 So there have been opportune times, and this is

22 consistent with all the colleges that we've we dealt

23 with.

24 BOARD CHAIR MOULTON-PATTERSON: I think that's

25 about all we can do, thank you.

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1 BOARD MEMBER PAPARIAN: Madam Chair.

2 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian.

3 BOARD MEMBER PAPARIAN: The several colleges you

4 mentioned, Monterey and several of the others, did you,

5 did you want us to pull those off the resolution at this

6 point? I didn't quite understand that.

7 MR. MORALES: No, I just wanted to note that

8 they had, in fact, had responded to the letter that we

9 had sent noticing them that we were bringing this item

10 forward. However, based on the resolution we would

11 continue to work with them to come forward with an

12 approved plan.

13 BOARD MEMBER PAPARIAN: Okay. So the list we

14 have is the one we have to work with?

15 MR. MORALES: Is the list we maintain, correct.

16 BOARD MEMBER PAPARIAN: And then just a quick

17 question. There are still somewhere close to 200 plans

18 outstanding.

19 MR. MORALES: Approximately. That will be

20 coming forward that we're completing final review on.

21 BOARD MEMBER PAPARIAN: Any timeline? Do you

22 expect them soon?

23 MR. MORALES: Actually, that's a good question,

24 let me ask Trevor O'Shaughnessy who has been the person

25 cracking the whip with staff. Let me see.

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1 MR. O'SHAUGHNESSY: If we take this grouping
2 that you're taking action on at this point, at the end of
3 the month we would be forwarding a listing through the
4 Executive Director of all completed plans that have been
5 reviewed and recommended approval by the Board staff.

6 BOARD MEMBER PAPARIAN: Okay. Thank you.

7 MR. MORALES: All right. Any other questions I
8 can answer?

9 BOARD CHAIR MOULTON-PATTERSON: Oh. Did the
10 person from Merritt College wish to speak?

11 MR. MORALES: I don't know.

12 BOARD CHAIR MOULTON-PATTERSON: I don't have any
13 speaker slips.

14 Mr. Medina.

15 BOARD MEMBER MEDINA: Madam Chair, I just wanted
16 to say that I agreed with, in regard to the Chancellor's
17 Office, not only do they need to be up to date, but they
18 need to take a leadership role in getting the other
19 community colleges in compliance.

20 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
21 Medina.

22 Mr. Jones.

23 BOARD MEMBER JONES: Madam Chair, I will move
24 adoption of Resolution 2001-345, consideration of action
25 on the submittal of Integrated Waste Management Plans as

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1 required by AB 75 that have been deemed incomplete for

2 the following state agencies, as listed.

3 BOARD CHAIR MOULTON-PATTERSON: I'll second.

4 Motion by Jones, seconded by Moulton-Patterson.

5 Please call the roll.

6 BOARD SECRETARY FARRELL: Jones?

7 BOARD MEMBER JONES: Aye.

8 BOARD SECRETARY FARRELL: Medina?

9 BOARD MEMBER MEDINA: Aye.

10 BOARD SECRETARY FARRELL: Paparian?

11 BOARD MEMBER PAPARIAN: Aye.

12 BOARD SECRETARY FARRELL: Moulton-Patterson?

13 BOARD CHAIR MOULTON-PATTERSON: Aye. Item tour

14 was deleted.

15 Five, please.

16 MR. SCHIAVO: Item five is discussion of

17 cooperative agreements between the Integrated Waste

18 Management Board and California Indian tribes.

19 And this item will be presented by Catherine

20 Cardozo.

21 MS. CARDOZO: Good morning, Madam Chair and

22 Board members.

23 I'd like to point out, as we had mentioned at

24 the briefing, that we made some revisions to the item

25 since it was printed, and those copies you received

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1 earlier this morning. There's also copies in the back of
2 the room.

3 Staff is presenting this item to provide the
4 Board with a general sense of what would be involved with
5 the effort to include California Indian tribes in our
6 existing outreach efforts for providing technical
7 assistance.

8 The item also identifies previous examples of
9 Board activities involving California Indian tribes and
10 the potential for future cooperative efforts. As
11 mentioned in the item, staff anticipates such cooperative
12 efforts to include entering into memorandums of
13 understanding with tribes that wish to include recycled
14 content products in their development plans.

15 One such tribe is the Morongo Band of Mission
16 Indians who initiated contact with the Board to develop
17 such an MOU. This MOU may be coming before the Board as
18 early as next month.

19 As discussed in the item, staff anticipates this
20 effort will include working with California Indian
21 tribes, the Board's legal staff, other state agencies
22 that work with California Indian tribes, and the U.S. EPA
23 region nine as well as the Bureau of Indian Affairs.

24 That concludes my presentation. Are there any
25 questions?

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1 BOARD CHAIR MOULTON-PATTERSON: Mr. Medina.

2 BOARD MEMBER MEDINA: No. I just wanted to

3 thank staff for the good job that they've done in putting

4 this together and moving this forward.

5 BOARD CHAIR MOULTON-PATTERSON: Thank you. So

6 without any further questions, you know, I'd like to

7 thank you too. And we recommend that staff start work on

8 the plan and provide regular updates to the Board.

9 Thank you, Mr. Medina, for all of your work in

10 this area, you and your staff.

11 BOARD MEMBER JONES: Madam Chair.

12 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

13 BOARD MEMBER JONES: Just two seconds. Because

14 we're getting out of local assistance and planning at

15 this point, they have a new employee named Cedar Kehoe,

16 and normally we don't identify new employees, but Cedar

17 had worked with NorCal, was actually the first person who

18 put the household hazardous waste, both load checking and

19 permit and program together in San Francisco; and was our

20 first general, or was our general manager of sanitary

21 fill for quite some time; had responsibility for

22 transferring out, and all those operations of about 2,500

23 tons of waste a day; and now she's working at the Board.

24 So I just thought I would tell you it's good to

25 see you and let, introduce you to the other folks here.

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1 BOARD CHAIR MOULTON-PATTERSON: Thank you.

2 Welcome. We're very lucky to have you. Thank you.

3 (APPLAUSE.)

4 BOARD CHAIR MOULTON-PATTERSON: Yes, Mr. Jones,

5 thank you.

6 I'd like, my intent is to finish the executive

7 administrative part before we go to lunch. And in

8 looking at it, we have 21 and 23 with item 24 being

9 discussion only.

10 So with that we'll go to 21, Ms. Mortensen,

11 legislation.

12 MS. MORTENSEN: Good morning, Madam Chair and

13 Board members. I'm Carol Mortensen with the Board's

14 legislative office, and I wanted to give you an update on

15 the six bills that we've been tracking.

16 BOARD CHAIR MOULTON-PATTERSON: Thank you.

17 MS. MORTENSEN: Is that better?

18 BOARD CHAIR MOULTON-PATTERSON: Yes.

19 MS. MORTENSEN: Carol Mortensen with the Board's

20 leg office. And I was going to give you a brief update

21 on the six bills that have passed both the Senate and the

22 Assembly and have been sent to the Governor for his

23 consideration.

24 As you know, the deadline to get bills to the

25 Governor is this Friday, so we're in pretty good shape.

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1 But the first bill is AB 173 by Assemblymember
2 Chavez dealing with inerts and the management of inerts.
3 That one was enrolled last week.
4 AB 560 by Assemblymember Jackson, and AB 1201 by
5 Assemblymember Pavley. Those bills both deal with the
6 Board's used oil recycling program, and add the option of
7 storm water management for oil and oil products to the
8 list of activities that could be funded with the oil
9 recycling funds.
10 AB 1187, our omnibus cleanup bill sponsored by
11 the floor which was carried by Assemblymember Simitian
12 was also enrolled last week.
13 SB 88 by Senator Costa dealing with the Board's,
14 or the LEA's jurisdiction over odors emitting from
15 compost facilities. Something to be noted there is that
16 they added an urgency clause at the end of the Assembly
17 debate, which needed a two-thirds vote, and we got that
18 in there. That was needed because the current statute
19 has a date of October of this year for LEA5 to have
20 jurisdiction over compost facilities and odors.
21 And the last bill is SB 1127 by Senator Karnette
22 dealing with plastics. And that is the, specifically
23 polystyrene, and we'll be working with our plastics white
24 paper to pull out the information on polystyrene to
25 supply that to Senator Karnette.

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1 So that was my brief update, if you had any

2 questions I'd be happy to answer.

3 BOARD CHAIR MOULTON-PATTERSON: Thank you very

4 much for that brief update. I don't see any questions at

5 this time.

6 MS. MORTENSEN: Thank you.

7 BOARD CHAIR MOULTON-PATTERSON: Mr. Sitts, item

8 23, this is approval of 2002 Board meetings held in

9 locations other than Sacramento. And as you can see,

10 we've only suggested that we go out three times, and Mr.

11 Sitts will go over that with you.

12 Just in preface to this, I'd like to, if we can,

13 adopt these at this meeting, but we, it's come up a

14 number of times that meeting on Tuesdays and Wednesdays

15 sometimes interferes with Board of Supervisors, and so I

16 think at next month's meeting when Senator Roberti is

17 back, and hopefully Mr. Eaton is back, that we will talk

18 about maybe the ramifications of moving our meetings to

19 perhaps Wednesday and Thursday, but I really don't want

20 to have that discussion without our other two Board

21 members.

22 So sorry about that, Mr. Sitts. Would you like

23 to present?

24 MR. SITTS: Good morning, Chair, Board members.

25 John Sitts, Office of Organizational Effectiveness.

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1 Agenda item 23 is looking at Board meetings to
2 be held in the locations other than Sacramento in 2002.
3 The three proposed locations are El Centro in Imperial
4 County in March. Oxnard in Ventura County in June. And
5 Susanville in Lassen County in October.
6 We're recommending approval of this schedule
7 and, through Resolution 2001-377.

8 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
9 Sitts.

10 BOARD MEMBER JONES: Madam Chair.

11 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

12 BOARD MEMBER JONES: Madam Chair, I'll move
13 adoption of Resolution 2001-377, consideration of
14 approval of the 2002 Board meetings held in locations
15 other than Sacramento.

16 BOARD MEMBER MEDINA: Second.

17 BOARD CHAIR MOULTON-PATTERSON: Thank you. We
18 have a motion by Mr. Jones, seconded by Mr. Medina.
19 Please call the roll.

20 BOARD SECRETARY FARRELL: Jones?

21 BOARD MEMBER JONES: Aye.

22 BOARD SECRETARY FARRELL: Medina?

23 BOARD MEMBER MEDINA: Aye.

24 BOARD SECRETARY FARRELL: Paparian?

25 BOARD MEMBER PAPARIAN: Aye.

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1 BOARD SECRETARY FARRELL: Moulton-Patterson?

2 BOARD CHAIR MOULTON-PATTERSON: Aye. Okay.

3 That concludes our administrative portion of the agenda.

4 We still have waste prevention and market development and

5 then one item in special waste.

6 INTERIM EXECUTIVE DIRECTOR LEARY: Madam Chair,

7 we still have agenda item 24 --

8 BOARD CHAIR MOULTON-PATTERSON: Oh, I'm sorry.

9 INTERIM EXECUTIVE DIRECTOR LEARY: -- which I'd

10 be happy to introduce.

11 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.

12 Leary.

13 INTERIM EXECUTIVE DIRECTOR LEARY: No problem.

14 Madam Chair, I asked that agenda item 24 be put together

15 because as I assumed the duties of Interim Executive

16 Director I came to realize that the Board's delegations

17 to the Executive Director hadn't really been updated or

18 even brought before you or your predecessor Board in

19 quite some time.

20 So with the terrific help of the legal office,

21 Kathryn and Elliot specifically, we've put this item

22 together just to, really more as an information and some

23 brief discussion.

24 This item has been changed from consideration to

25 discussion because it doesn't really require any action

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1 on your part unless you give us further direction and

2 we'll bring it back.

3 But Elliot will touch on some of the highlights

4 presented in agenda item 24, and it's there for your

5 information and discussion.

6 BOARD CHAIR MOULTON-PATTERSON: And we do have

7 one public speaker.

8 Thank you.

9 LEGAL COUNSEL BLOCK: Okay. Elliot Block for

10 the legal office, and actually Mark made most of my

11 shortened presentation.

12 But just to briefly again go over the, as Mark

13 had said, we haven't done a compilation of Board

14 delegations since January of 1995. Since then we've had

15 two that were in that compilation, have essentially gone

16 away because of the statutes that they were related to

17 were repealed, and the Board has separately approved nine

18 other delegations over the course of the last six years.

19 The resolution, when we were first looking at

20 this as being a consideration item, the resolution that's

21 in your packet contains all of those and essentially just

22 uses the same language out of the individual approvals

23 that were made previously.

24 If you wanted to look at them more specifically,

25 I know I just highlighted them in the item, it starts

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1 with the third whereas on page three of the resolution is
2 where some of the new ones come in.

3 And as you would see, some of them were simply
4 delegations as part of the Board items, some of them were
5 actually part of regulations packages where the
6 regulations themselves, in fact, provide the delegation.

7 And I know that, to a certain extent whether we
8 do this just simply administratively or if the Board
9 gives us other direction, it would be useful to have an
10 updated list.

11 I've actually, in the process of having put
12 together this list, it was actually surprising how much
13 time it took to gather from various different places
14 where those delegations were because it wasn't tracked.
15 So it would be nice, in whatever form we end up
16 doing that, have this list available, and then obviously
17 we will track it much more directly in the future as well
18 so that's much easier to do.

19 I'm ready to answer any questions if you had
20 any, or take any direction.

21 BOARD CHAIR MOULTON-PATTERSON: Thank you.

22 Mr. Paparian.

23 BOARD MEMBER PAPARIAN: Quick question. Is
24 there a personnel management part of the resolution, the
25 draft resolution?

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1 LEGAL COUNSEL BLOCK: In terms of the Executive

2 Director, I believe that's not, it doesn't appear in the

3 delegation itself, it's in the job description that the

4 Board has put together for the Executive Director.

5 BOARD MEMBER PAPARIAN: I wonder if it should be

6 since the statute has that going to the Board? But you

7 don't have to answer that now, but consider that.

8 CHIEF LEGAL COUNSEL TOBIAS: Well I think, we've

9 talked about that, and I think if the Board wanted to put

10 it. in the delegations they certainly could. I think the

11 traditional place it occurs is in the, when the Board

12 hires the Executive Director to put those duties that

13 they want the Executive Director to carry out in the job

14 duties statement.

15 So I don't see a problem with putting it in the

16 delegation, but I think that most of the time you would

17 look to the job statement to find that.

18 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank

19 you.

20 And we do have one speaker, Mr. William

21 O'Rullivan, Kern County Environmental Health Services

22 Department.

23 MR. O'RULLIVAN: Thank you, Madam Chair and

24 members of the Board.

25 Briefly, Kern County supports or requests

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1 reinstatement of the delegated permit revision process.

2 Number one, it improves efficiency of the permit

3 process. We have an excellent track record with

4 delegated revisions with the Board staff.

5 Number two, it will streamline Board agendas and

6 hearings. And especially for us, it reduces the cost to

7 local government, to the operators. And this, I'm sure,

8 is a cost savings to, for Board staff that would

9 otherwise be freed up to do other tasks.

10 Delegated permit revisions are also especially

11 compatible with the Board's stated support of

12 conservation goals with the state, by cutting out

13 unnecessary travel and all the costs associated with

14 that. And in view of recent events I can't hope to think

15 that, especially with comments about the recession or

16 going into a wartime footing, that we need to look for

17 more efficient ways of holding the meetings and improving

18 the permitting process by using such items as delegated

19 revisions.

20 Thank you.

21 BOARD CHAIR MOULTON-PATTERSON: Thank you very

22 much for being here. We appreciate it.

23 Seeing no other comments, so it's the intent to

24 bring the list back or just - -

25 INTERIM EXECUTIVE DIRECTOR LEARY: It doesn't

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1 need to be unless you'd like us to and for you to

2 reaffirm in a consideration item.

3 These, these delegations as Elliot described are

4 delegated currently part of the Board's record, and the

5 Board has acted on all these delegations in the past.

6 BOARD CHAIR MOULTON-PATTERSON: Perhaps we can

7 bring the list back too when we have all the members

8 here?

9 INTERIM EXECUTIVE DIRECTOR LEARY: Okay.

10 BOARD CHAIR MOULTON-PATTERSON: Thank you.

11 Okay.

12 With that we're going to have our lunch break,

13 and we will have a closed session at 1:30. Hopefully

14 we'll be out perhaps as early as 2:00 o'clock, we hope to

15 (Thereupon the luncheon recess was taken.)

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1 AFTERNOON SESSION

2 --oOo--

BOARD CHAIR MOULTON-PATTERSON: I'd like to call

4 the meeting back to order. And we'll declare ex-partes.

5 I'll start by declaring for all of the Board

6 members, we received a fax from John Davis on item number

7 26, the RMDZ group. And I'll ex-parte that for all of

8 us.

9 Mr. Eaton, did you have any ex-partes?

10 BOARD MEMBER EATON: No, I'm up to date. Thank

11 you.

12 MS. MOULTON-PATTERSON: Thank you.

13 Mr. Jones?

14 BOARD MEMBER JONES: Just John Cupps.

15 MS. MOULTON-PATTERSON: Okay, thank you.

16 Mr. Medina?

17 BOARD MEMBER MEDINA: None to report.

18 MS. MOULTON-PATTERSON: Mr. Paparian?

19 BOARD MEMBER PAPARIAN: John Cupps.

20 MS. MOULTON-PATTERSON: Okay. Thank you. We're

21 going to go straight to item 28, and I'll turn it to Ms.

22 Wohl.

23 MS. WOHL: Good afternoon, Patty Wohl, Waste

24 Prevention and Market Development Division. I was hoping

25 Jeff Hunt would come running through the door.

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1 But item 28 is consideration of approval of
2 designation of the waste reduction awards program WRAP
3 winners for 2001.
4 I think the unique issue here is that we're
5 recommending that we hold Target in suspension until they
6 agree to complete a compliance agreement. We felt that
7 this was different than the ones we brought forward last
8 year because they had already entered into compliance
9 agreements and were making some attempt at working
10 through that. And since that hasn't occurred yet with
11 Target, that was sort of our uniqueness with them.
12 Speaking of the recommendation --

13 MR. HUNT: Good afternoon, Board members, sorry
14 for the delay. Not sure what's been covered. My name is
15 Jeff Hunt, I'm with the Waste Prevention and Development
16 Division, supervisor of the WRAP program.

17 The item before you is consideration of the year
18 2001 winners. It's been a great year for the program, a
19 record breaking number of applications.

20 The applications have been scored and we have
21 2,347 applicants that have scores that qualify them for
22 the WRAP Award.

23 As Patty was alluding to, we have a couple of
24 compliance issues that are highlighted in the item. The
25 first one dealing with permitting and enforcement. Staff

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1 feel has been resolved in communication with our P and E
2 staff and with the LEA in San Diego, the nursery is
3 cleaning up the issue. And it is not being recommended
4 to have the award suspended.

5 The Target stores RPPC issue is, because of the
6 regulatory nature of that program, the WRAP staff is
7 deferring to the suggestions of our legal office and the
8 RPPC program to hold that. particular award, to suspend it
9 until such time as the compliance status of Target is
10 better understood.

11 Again, I'm sorry that we were upstairs when this
12 got started again.

13 Staff's recommendation there is to adopt
14 Resolution number 2001-376, accepting staff's scoring and
15 evaluation, and approving all 2,347 businesses, but
16 temporarily suspending the WRAP Award to the Target
17 stores until their RPPC compliance status is better
18 understood.

19 MS. MOULTON-PATTERSON: Okay. Thank you very
20 much.

21 CHIEF LEGAL COUNSEL TOBIAS: Madam Chair, may I
22 read our statement before the discussion starts, please?

23 BOARD CHAIR MOULTON-PATTERSON: Yes.

24 CHIEF LEGAL COUNSEL TOBIAS: As you know, the
25 Political Reform Act prohibits public officials from

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1 making or participating in the making of government
2 decisions in which he or she knows or has reason to know
3 that she or he has a disqualifying conflict of interest.
4 A public official has a conflict of interest if
5 the decision will have a reasonably foreseeable material
6 financial effect on one or more of his or her economic
7 interests.

8 The potential WRAP Award winners listed in this
9 agenda item would be considered to be directly involved
10 in a governmental decision because they filed an
11 application for the WRAP Award and are the subject matter
12 of the item.

13 The general rule for business entities directly
14 involved in a decision is that the effect of the decision
15 is material simply because it is directly involved in the
16 decision, regardless of the actual monetary impact,
17 unless a specified exception applies.

18 This general rule will apply to two of the Board
19 members who each have an interest in one of the companies
20 listed in attachment one for which a specified exception
21 does not apply.

22 In order to avoid a conflict of interest, based
23 upon consultation with the Fair Political Practices
24 Commission, the discussion on this item and the voting on
25 this item will be segregated as follows:

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1 All members may discuss the issues identified in
2 the agenda item related to review of compliance with
3 CTWMB regulatory programs, which is on page 28-4 of this
4 item, because none of the companies in which Board
5 members have an interest will be impacted by this issue.
6 Board members Eaton and Paparian will abstain
7 from participating in the discussion regarding any other
8 part of this item.

9 The vote on the resolution for this item will be
10 done through three separate motions so that no Board
11 member will be voting regarding the company in which he
12 has an interest.

13 And I will provide more information on the
14 motions when the time is appropriate.

15 BOARD CHAIR MOULTON-PATTERSON: I don't see any
16 questions, so Mr. Jones.

17 BOARD MEMBER JONES: Yeah, what do the
18 resolutions have to look like? I mean we're doing A, B,
19 and C? We'll wing it.

20 Okay, Madam Chair.

21 CHIEF LEGAL COUNSEL TOBIAS: The resolutions
22 stay the same, it's just that the motions on certain
23 ones.

24 Are you ready to do the motions?

25 BOARD CHAIR MOULTON-PATTERSON: Yes.

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1 CHIEF LEGAL COUNSEL TOBIAS: The first motion

2 should be regarding Cisco Systems, Inc. in San Jose.

3 MS. MOULTON-PATTERSON: We have that. Thank

4 you, Ms. Tobias.

5 Mr. Jones.

6 BOARD MEMBER JONES: I'd like to move adoption

7 of Resolution 2001-376, it's been revised to show Cisco

8 Systems, Inc.

9 BOARD MEMBER MEDINA: Second.

10 MS. MOULTON-PATTERSON: Okay. We have a motion

11 by Mr. Jones, seconded by Mr. Medina.

12 Please call the roll.

13 BOARD SECRETARY FARRELL: Eaton?

. 14 BOARD MEMBER EATON: Due to the issues raised by

15 counsel I have to abstain.

16 BOARD SECRETARY FARRELL: Jones?

17 BOARD MEMBER JONES: Aye.

18 BOARD SECRETARY FARRELL: Medina?

19 BOARD MEMBER MEDINA: Aye.

20 BOARD SECRETARY FARRELL: Paparian?

21 BOARD MEMBER PAPARIAN: Aye.

22 BOARD SECRETARY FARRELL: Moulton-Patterson?

23 BOARD CHAIR MOULTON-PATTERSON: Aye.

24 BOARD MEMBER JONES: Madam Chair.

25 MS. MOULTON-PATTERSON: Yes.

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1 BOARD MEMBER JONES: I'd like to move adoption
2 of Resolution 2001-376, the two Bank of America offices
3 listed in attachment one.

4 BOARD CHAIR MOULTON-PATTERSON: Okay. I'll
5 second.

6 We have a motion by Mr. Jones, seconded by
7 Moulton-Patterson.

8 Please call the roll.

9 BOARD SECRETARY FARRELL: Eaton?

10 BOARD MEMBER EATON: Aye.

11 BOARD SECRETARY FARRELL: Jones?

12 BOARD MEMBER JONES: Aye.

13 BOARD SECRETARY FARRELL: Medina?

14 BOARD MEMBER MEDINA: Aye.

15 BOARD SECRETARY FARRELL: Paparian?

16 BOARD MEMBER PAPARIAN: Again for the reasons
17 stated I am not voting on this item.

18 BOARD SECRETARY FARRELL: Moulton-Patterson?

19 BOARD CHAIR MOULTON-PATTERSON: Aye.

20 BOARD MEMBER JONES: Madam Chair, the final
21 motion is going to be resolution number 2001-376,
22 consideration of approval of the designation of the Waste
23 Reduction Awards Program winners for 2001, and holding
24 Target in suspension until they finish their RPPC
25 compliance.

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1 MS. MOULTON-PATTERSON: And I will second.

2 Motion by Jones, seconded by Moulton-Patterson.

3 Please call the roll.

4 BOARD SECRETARY FARRELL: Eaton?

5 BOARD MEMBER EATON: Aye.

6 BOARD SECRETARY FARRELL: Jones?

7 BOARD MEMBER JONES: Aye.

8 BOARD SECRETARY FARRELL: Medina?

9 BOARD MEMBER MEDINA: Aye.

10 BOARD SECRETARY FARRELL: Paparian?

11 BOARD MEMBER PAPARIAN: Aye.

12 BOARD SECRETARY FARRELL: Moulton-Patterson?

13 BOARD CHAIR MOULTON-PATTERSON: Aye. Okay.

14 We'll go back to item 26. Is that the way you wish to

15 proceed?

16 MS. WOHL: Yes. Item 26, consideration of

17 approval of contractor for the recycling market

18 development revolving loan leveraging study, contract

19 number IWM-C0085 will be presented by Barbara Van Gee,

20 along with item 30.

21 MS. VAN GEE: Thank you, Madam Chair and Board

22 members.

23 Agenda item 26 is requesting your approval of

24 the contractor for the recycling market development

25 revolving loan leveraging study.

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1 The low bidder is the Millken Institute based in
2 Santa Monica. They are a non-profit, non-partisan,
3 independent, economic think tank founded in 1991. They
4 specialize in conducting research in corporate finance,
5 capital markets, and financial institutions.
6 Staff recommends that the Board approve the
7 award of the contract in the amount \$96,500 to the
8 Millken Institute, and adopt Resolution number 300-348.
9 Any questions?

10 BOARD MEMBER JONES: Madam Chair.

11 MS. MOULTON-PATTERSON: Yes, Mr. Jones.

12 BOARD MEMBER JONES: Glad to see this coming
13 forward, glad to see the work that you've done on this.

14 I would like to move adoption of Resolution
15 2001-348, consideration of approval of contracts,
16 contractor for the recycling market development revolving
17 loan leveraging study, contract number IWM-C0085.

18 BOARD MEMBER MEDINA: Second.

19 MS. MOULTON-PATTERSON: Motion by Mr. Jones,
20 seconded by Mr. Medina.

21 Please call the roll.

22 BOARD SECRETARY FARRELL: Eaton?

23 BOARD MEMBER EATON: Aye.

24 BOARD SECRETARY FARRELL: Jones?

25 BOARD MEMBER JONES: Aye.

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1 BOARD SECRETARY FARRELL: Medina?

2 BOARD MEMBER MEDINA: Aye.

3 BOARD SECRETARY FARRELL: Paparian?

4 BOARD MEMBER PAPARIAN: Aye.

5 BOARD SECRETARY FARRELL: Moulton-Patterson?

6 BOARD CHAIR MOULTON-PATTERSON: Aye.

7 BOARD MEMBER JONES: Madam Chair.

8 MS. MOULTON-PATTERSON: Mr. Jones.

9 BOARD MEMBER JONES: Just real quickly because

10 we are on such a roll.

11 With that letter on the RMDZ group that, the

12 group of four that were helping the, Madam Chair and

13 myself in the development of this group; while they asked

14 to be included, I think we'll, you know, we'll continue

15 to keep 'em informed and use 'em as a resource when we

16 need to, cause we definitely appreciate their help.

17 So --

18 MS. MOULTON-PATTERSON: Thank you. I would like

19 to mention before we go on that, just so we are not

20 wasting any staff time; we will be pulling item number 32

21 because of some legal questions that have come up. So if

22 you would make a note of that, please?

23 MS. WOHL: So then we were going to do item 30.

24 MS. MOULTON-PATTERSON: Item 30.

25 MS. WOHL: Barbara Van Gee will present that

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1 also.

2 MS. VAN GEE: Agenda item number 30 is

3 requesting approval of revisions to the project

4 eligibility criteria.

5 Staff requested input from zone administrators,

6 Board members and other Board staff. We did receive

7 comments from the California Association of Recycling,

8 market development zones, individual zone administrators,

9 and staff.

10 Six suggested changes were discussed in the

11 item, of which three are additions to the criteria, and

12 three are deletions.

13 Staff is recommending that the additions be

14 included in the project eligibility criteria, and not

15 make any of the suggested deletions.

16 I'll just briefly go over the three changes that

17 we're recommending. First one is to require that all

18 loans be evaluated based on the recommendations of the

19 Board's environmental justice program once it is approved

20 by the Board. This is option number three.

21 The second change would be to add conversion

22 technology as a new category of eligible projects. I did

23 want to mention that we received a late comment regarding

24 pyrolysis, and staff agreed with those comments, and we

25 are making a slight change to the criteria. And that's

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1 in attachment number three which is the "Project

2 Eligibility Criteria, September, 2001 Proposed."

3 On page four towards the bottom under

4 "Conversion Technology" we would need to add the word

5 "pyrolysis" after "gasification."

6 On page five under "Transformation" the first

7 sentence would be changed to, "A transformation project

8 is the production of a product that may be burned when

9 used." This section one that involves pyrolysis would be

10 deleted.

11 Also, under "Eligible Examples," the third

12 example would be deleted.

13 Staff is recommending option one which adds this

14 new category with no annual limitation on funding.

15 The third change would be to include sustainable

16 building practices in projects that involve real estate

17 that only includes improvements.

18 Staff is recommending option number two which

19 would require 25 percent of loan funds approved for

20 improvements to the property only be applied towards

21 sustainable building products.

22 Staff also recommends that the following three

23 items not be deleted from the current project eligibility

24 criteria:

25 The first is removing paper converters as an

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1 eligible project.

2 Deleting -- the second is deleting manufacturers

3 using post industrial plastic, and those using composite

4 materials from a variety of recycled plastic resins.

5 And the third one would be eliminating the jobs

6 through recycling, JTR, one million dollar set-aside.

7 Staff is recommending that we keep the first

8 two, the paper converters and the plastic manufacturers

9 as eligible projects, because both paper and plastic

10 continue to comprise a large portion of materials going

11 to landfills.

12 We are recommending that the JTR set-aside be

13 retained because a commitment was made to U.S. EPA

14 through 1031 which is the current set-asides expiration

15 date.

16 However, since the preparation of this item,

17 there have been some developments related to the broader

18 JTR 1998 project.

19 One of the properties that the JTR partners have

20 been working very hard on which will serve a cluster of

21 recycling businesses has recently become available. They

22 have requested, they need additional time for business to

23 site and possibly apply for a loan.

24 In response to this development, staff has been

25 in contact with U.S. EPA and the partners to extend the

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1 JTR project by an additional eight months, to June 30th,
2 2002.

3 U.S. EPA recently last week said that they would
4 consider the extension even without the set-aside.

5 Staff recommends that the Board approve
6 resolution number 2001-349 to revise the current project
7 eligibility criteria with the changes I discussed to the
8 conversion transformation categories.

9 Any questions?

10 BOARD CHAIR MOULTON-PATTERSON: Thank you very
11 much. Any questions before we go to our speaker.
12 Steve Lautse.

13 MR. LAUTSE: Good afternoon to the Board. I
14 want to say I am Steve Lautse from the Oakland Berkeley
15 Recycling Market Development Zone, and also the Vice
16 President and Policy Chair of the Association of RMDZ's.
17 Our president, John Davis, who sent you some
18 correspondence was unable to be here like many I'm sure,
19 because he couldn't fly from Southern California.
20 There's a record, or an attachment to the item
21 that is a letter from our association which expresses
22 concern about some of the proposed changes in eligibility
23 and, indeed, some of the recommended changes in
24 eligibility. And I just want to flag those briefly for
25 you.

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1 The staff has recommended that the 25 percent
2 green building recommendation be passed by your Board.
3 Our Board is concerned, while we're not against green
4 building, we are the troops who are in the field actually
5 qualifying these loans and trying to implement the
6 eligibility guidelines.
7 And we are concerned that while green building
8 is certainly a higher purpose of this Board, and we
9 understand that you want to make that a comprehensive
10 policy of the Board programs, not all the entrepreneurs
11 who approach the RMDZ program are as green as the others.
12 And so we're concerned that if the RMDZ program
13 shall remain vital as a business development program that
14 develops recycling-based manufacturers of all kinds, that
15 there be sensitivity to not erecting further barriers,
16 either for a longer application process, or something
17 which might actually be honorable but scare people away
18 from the program.
19 So we would ask that you delay on that item and
20 not act on it at this time. That would be a similar
21 action to the environmental justice provision as
22 recommended because that will wait until your Board
23 develops its environmental justice policy.
24 Finally, on a third point, the allowance for
25 eligibility of conversion technology, We are concerned,

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1 again related to the previous item in which we, like
2 Member Jones, are very glad that the RFP has been
3 reported out and that there will be a hard look at the
4 long-term options for funding of the RMDZ program.
5 Until that real future of our program, financial
6 future is resolved, we think it is unwise at this point
7 to embrace the inclusion of a technology that is still
8 very experimental; interesting, yes, and also very
9 capital intensive. So if certain projects were funded,
10 they might subsume large amounts of funds that are
11 dedicated to the RMDZ program for all types of
12 entrepreneurs at a time when the supply of funds for the
13 overall RMDZ fund is still in flux.
14 So in our letter we did recommend that the
15 conversion technology, the conversion technology be
16 included in the new eligibility, but that it be included
17 with the other transformation items, that is as a ten
18 percent maximum if funds are available.
19 So those are my comments. I'd be happy to take
20 any questions.
21 BOARD CHAIR MOULTON-PATTERSON: Thank you very
22 much. Questions?
23 Mr. Jones.
24 BOARD MEMBER JONES: Madam Chair, I would like
25 to move adoption of Resolution 2001-349 revised,

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1 consideration of approval of revisions to the recycling
2 market development revolving loan project eligibility
3 requirements.

4 BOARD MEMBER MEDINA: Second.

5 BOARD CHAIR MOULTON-PATTERSON: A motion by Mr.

6 Jones, seconded by Mr. Medina.

7 Please call the roll.

8 BOARD SECRETARY FARRELL: Jones?

9 BOARD MEMBER JONES: Aye.

10 BOARD SECRETARY FARRELL: Medina?

11 BOARD MEMBER MEDINA: Aye.

12 BOARD SECRETARY FARRELL: Paparian?

13 BOARD MEMBER PAPARIAN: Aye.

14 BOARD SECRETARY FARRELL: Moulton-Patterson?

15 BOARD CHAIR MOULTON-PATTERSON: Aye. Number

16 27.

17 MS. WOHL: Agenda item 27, consideration of
18 approval of a report to the legislature on the plastic
19 trash bag survey, Public Resources Code section 42293(b)
20 And John Nuffer will present.

21 MR. NUFFER: Good afternoon, Madam Chair, Board
22 members. My name is John Nuffer with the Plastics
23 Recycling Technology Section.

24 Item 27 asks you to consider a report to the
25 legislature concerning the plastic trash bag program.

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1 The report provides information and recommendations
2 derived from a legislatively mandated survey, which was a
3 one-time survey of plastic trash bag manufacturers, and
4 the Board's compliance certification for the year 2000.
5 This report is to be submitted to the legislature next
6 month.

7 As you may recall, plastic trash bag
8 manufacturers are required to use ten percent recycled
9 plastic in their trash bags, or to use 30 percent
10 recycled plastic in all of their plastic products. If
11 they can't find enough recycled plastic to comply with
12 these requirements during a given year, they may exempt
13 themselves from the requirements for that year. If trash
14 bag manufacturers do not meet these requirements, they
15 are prohibited from doing business with the State of
16 California.

17 In a survey that was required by Senate Bill 698
18 a couple of years ago asked us to look into five
19 different aspects of the program. There were four
20 questions, and then they asked us to provide
21 recommendations about the program. And I'll read the
22 four questions.

23 They wanted us to identify the name and physical
24 location of suppliers of the resin that's used in the
25 manufacture of trash bags.

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1 They wanted us to identify the quantity of
2 recycled plastic that was being provided by those
3 suppliers.
4 They wanted us to identify the thickness of
5 regulated bags.
6 And they wanted us to determine how much resin
7 production was being produced just for California only
8 versus for all of the country.
9 In addition to those questions they asked us to
10 make recommendations. The report makes three
11 recommendations.
12 We based our recommendations on that one-time
13 survey which we did jointly with the 2000 certification
14 this January.
15 We discussed the draft recommendations at an, at
16 one of our regular interested parties meeting, meetings.
17 Californians Against Waste supports the
18 recommendations, industry does not.
19 Let me go through the three recommendations, and
20 then I'll give you an analysis of, we sent those
21 recommendations out again for comment to the regulated
22 community and six additional trade associations, and I'll
23 give their comments at the end of letting you know what
24 these recommendations are.
25 The first is to increase the minimum content

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1 from ten percent. We didn't specify a new percentage
2 because we felt that was better decided by a working
3 group of stakeholders. We believe that's a reasonable
4 recommendation because using post consumer resin in trash
5 bags is technologically feasible. We found that twenty
6 of 32 manufacturers used more than ten percent in their
7 bags during 2000.

8 The second recommendation is to reinstate the 20
9 percent credit for using California resin. That expired
10 at the beginning of this year, and we believe that had
11 some effect in helping to stimulate California resin
12 processing. Eleven of 24 resin suppliers are located in
13 California, and much of that resin production goes
14 nationwide, it doesn't just stay in California.

15 And the third was to eliminate the self
16 exemption. And that was primarily to be consistent with
17 the rigid plastics program where the Board has the final
18 determination about compliance rather than the
19 manufacturers.

20 We sent those recommendations out to our 32
21 regulated manufacturers and to six additional
22 stakeholders. Let me make sure. We sent, we sent the
23 recommendations also to the California Chamber of
24 Commerce, the California Film Extruders and Converters
25 Association, the California Manufacturers Association,

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1 Californians Against Waste, the Planning and Conservation

2 League, and the Sierra Club.

3 We only heard from manufacturers other than CAW

4 we heard from at the interested parties meeting.

5 The first recommendation to increase the amount,

6 the minimum content from ten percent. Two companies said

7 yes, do that; ten companies said no, don't do that.

8 The second recommendation to reinstate the 20

9 percent credit for using California resin. Four

10 companies said yes, and four companies said no.

11 The third recommendation, to eliminate the self

12 exemption. Three companies said yes, and five companies

13 said no.

14 So that's, that's the results of sending out

15 these comments to the regulated community.

16 I'd be happy to answer questions now and discuss

17 it with you.

18 MS. MOULTON-PATTERSON: Okay. Any questions

19 before our speakers?

20 Tim Shestek.

21 MR. SHESTEK: Thank you, Madam Chair. I was

22 hoping to have Laurie Nelson go first, if that's

23 possible?

24 MS. MOULTON-PATTERSON: Okay. Laurie Nelson.

25 MR. SHESTEK: Thank you.

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1 MS. NELSON: Madam Chair and members, I'm Laurie
2 Nelson and I represent the Clorox Company. We are
3 headquartered in Oakland, California. We have a high
4 density polyethylene bag plant in Bell, California. We
5 have a number of Glad plants around the nation.
6 And I think that our reputation as a company is
7 that we go above and beyond what is required
8 environmentally, both in our products and in our
9 packaging, whenever possible.
10 I also believe we have established a very good
11 working relationship, not only with this Board but with
12 your staff.
13 That having been said, I want to say that the
14 plastic trash bag law is a special challenge for us.
15 There's two main reasons for that.
16 One is how plastic trash bags are made. They're
17 run on lines which operate 24/7 which is how we keep the
18 cost to the consumer down. It's blown film which is very
19 sensitive to contaminants, and it's blown up five stories
20 high, or about fifty feet high. So everytime you get a
21 contaminant that collapses, the line goes down, it's a
22 real problem for us.
23 The second is how the bags are used, how they're
24 meant to be used. That is, trash bags are designed to
25 take trash to the dump, they're thrown away. So it's not

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1 like you can rinse out a bottle and recycle it and use it
2 again. So we have to find our recycled content somewhere
3 else.

4 And that leads us to our main problem with the
5 current law and with the suggested proposal to the
6 legislature, and that is that it's a supply problem, not
7 a demand problem. So saying that we should increase the
8 amount doesn't help us.

9 We have been very aggressive in our efforts to
10 find suppliers, within California, outside California,
11 and extending into Canada. We've been unable to locate
12 the quantity or the quality of material we need to make a
13 quality bag. The bigger companies, Exxon, Mobil, I've
14 been told are now out of the recycled film business.

15 We've been relying on smaller manufacturers, and
16 I can't tell you how many we have gone through where we
17 have signed contracts and then they have gone bankrupt.

18 We can't use bottles. And I don't know how much
19 you know about the difference between films, but there's
20 linear low density polyethylene, which we put in our Glad
21 bags, and I can pass them around and you can see what the
22 difference is, they are tear and puncture resistant. If
23 you put a tear in they don't run, and they stretch.

24 The high molecular weight, the high density
25 polyethylene which can accept some bottles, it's used in

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1 institutional industrial settings. They're can liners,
2 you put paper waste in them, so it's not as important
3 that they have that same structural integrity.
4 So I want to emphasize that it's not a lack of
5 commitment on our part. As your own survey indicated,
6 seven Out of thirteen respondents had concerns with
7 availability too and price issues.
8 And I think that if you look at the staff's
9 report that says only three self-certified that they
10 couldn't meet the requirements; if you look at the market
11 share of those three, plus the others who did not
12 self-certify but did not comply, I think you're going to
13 be close to 50 percent of the market. And if you look at
14 the linear low density bags, you may even be above that.
15 If we're required to put ten percent PCR in our
16 bags of the contaminated sources which are available now,
17 I've been told we're going to have to make our bags 30 to
18 50 percent thicker, which is a lose-lose proposition, you
19 get more plastic and more cost to the consumer.
20 So what I'd like to suggest as an alternative is
21 that the Waste Board and your staff, you continue to work
22 with us and other companies to locate suppliers.
23 We have checked on every single supplier the
24 Waste Board has given us to date. To continue to explore
25 the issue more in depth.

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1 And we can do that in two ways. One is we can
2 continue to bring our technical folks out to meet with
3 your staff.
4 And then the second suggestion would be to
5 include this in the plastic white paper which is being
6 prepared for the Board. So.
7 Those would be my suggestions as an alternative
8 to the proposal before you.
9 And then to close, I would just briefly like to
10 comment on the charts and graphs. And that is, if you
11 look at the compliance history where it seemed like there
12 was higher compliance at 30 percent level, that's because
13 at the 30 percent level it was at .75 mils, and what
14 companies did as a rule is they went to .74 mils to get
15 under that, because they could make a better, higher
16 quality, stronger bag at .74 than they could at .75 or
17 above with 30 percent PCR.
18 And then the second use is if you look at this
19 dip in recycled plastic, and it appears as though it's
20 when the ten percent kicked in. What you need to know is
21 the effective date of that was May, '98, the
22 manufacturers were aware in '98 that it was going to drop
23 to ten percent.
24 And the other is we look at what was happening
25 in our world is we have had a number of our small

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1 suppliers go bankrupt at that time which could account

2 for that dip.

3 So thank you for your time. And if you're

4 interested I can pass out these bags and you can feel the

5 difference.

6 BOARD CHAIR MOULTON-PATTERSON: Thank you very

7 much, Ms. Nelson.

8 BOARD MEMBER JONES: Can I ask a question?

9 MS. MOULTON-PATTERSON: Yes, Mr. Jones.

10 BOARD MEMBER JONES: Did the small suppliers go

11 out of business because the 30 percent had gone away?

12 MS. NELSON: You know, there's a real problem

13 with this kind of material. It's very labor intensive to

14 clean because of the area, it's very energy intensive,

15 and it's hard to get the supply.

16 Used stretch pallet wrap is basically what we're

17 trying to get. I've been told a lot of that is being

18 sucked directly into areas like plastic lumber. We're

19 just not a big enough market at 30 percent, at 50

20 percent, to be able to keep them in business.

21 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank

22 you, Ms. Nelson.

23 I have speaker slips from George Larson, and

24 Tim, did you wish to speak, or I don't know which order

25 you want to go in.

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1 MR. SHESTEK: Thank you, Madam Chair and
2 members. Tim Shestek with the American Plastics Council.
3 I won't take the Board's time in reiterating the
4 technical issues that Ms. Nelson raised. I did want to
5 raise one issue relative to the energy crisis and this
6 particular industry.
7 The California film and bag industry employs
8 approximately 5,000 people in this state. Most are small
9 and medium-sized manufacturing firms that pay unionized
10 employees above average wages.
11 The state's energy situation really has impacted
12 this industry significantly. Many companies since July
13 of last year have seen their electrical costs increase
14 over one hundred percent. And as Ms. Nelson mentioned,
15 these companies are operating 24 hours a day, seven days
16 a week.
17 And in order to meet those demands, these
18 companies are slashing jobs; they are slashing capital
19 spending; and some, even worse yet, are looking to move
20 their operations out of the state.
21 I would just encourage the Board to consider the
22 potential impact that an additional regulatory
23 requirement may have on this industry as a recommendation
24 to go forward to the legislature. Thank you.
25 BOARD CHAIR MOULTON-PATTERSON: Thank you.

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1 George Larson.

2 MR. LARSON: Madam Chair, members, George Larson

3 representing American Plastics Council. Just a couple of

4 comments.

5 I recognize that, you know, as noted in the

6 staff's report, that a report is due to the legislature

7 on this program, and certainly when there's a mandated

8 report you must respond. However, the subject or issue I

9 wish to raise is what may be contained in that report.

10 And what I would like to highlight is that my

11 assessment is that the findings and recommendations are

12 not really substantiated by the history of the program as

13 is provided by your staff in the back of the room, and

14 I'm sure you've seen the charts of the history of this

15 program. To me it reflects a, implementation of a very

16 successful program, and it's kind of one of those "If it

17 ain't broke, don't fix it" type things, so I don't really

18 see the substantiation for the need.

19 Secondly, on the timing issue, I believe the

20 recommendations that were highlighted by Mr. Nutfer are

21 premature.

22 The first point is it's really not, they're not

23 really based upon input from interested parties. We've

24 had the RPPC meetings over the, on a regular basis, and

25 this was discussed at one time, but there has not been

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1 dedicated meetings to try to discuss the whole issue of
2 this trash bag implementation.

3 And the primary reason is there is a white paper
4 currently under development, and I believe the scope of
5 that white paper is to evaluate the broader issues
6 regarding the plastics recycling and plastics
7 manufacturing in California. And I think it's premature
8 to make these findings prior to the white paper which
9 will later have the opportunity to address this issue in
10 much more detail.

11 So I would like to suggest that the Board submit
12 its report to the legislature as required by law, but to
13 defer the recommendations contained in this agenda item
14 and incorporate those into the study of the white paper.
15 I'll be glad to take questions. Thank you.

16 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
17 Larson.

18 Mr. Jones.

19 BOARD MEMBER JONES: That's fine.

20 BOARD CHAIR MOULTON-PATTERSON: Comments?

21 BOARD MEMBER JONES: Madam Chair.

22 MS. MOULTON-PATTERSON: I just wanted to say
23 that, you know, perhaps in the future just as a matter of
24 procedure we could bring a separate agenda item to the
25 Board the month prior to consideration of when we have to

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1 send the report over to the legislature because, you

2 know, we're a little bit under the gun now that we have

3 to do that. So that would be helpful to me.

4 Mr. Jones.

5 BOARD MEMBER JONES: Yeah, I think all of us,

6 Madam Chair, you're right. Just a couple of things.

7 It, I think this law used to be at 30, and then

8 it was going to go up somewhere else, and then I remember

9 the industry coming in and said, "Let's make it ten

10 percent nationwide." And there were a whole lot of

11 issues around this.

12 And then we had a supplier or a manufacturer

13 that supplied all the Costco stores with a, with plastic

14 bags and it was, you know, this person had not had enough

15 recycled content in his bag, and everybody in the world

16 came forward to make sure that we did the action we had

17 to, and subsequently that guy went out of business and

18 everybody else has Costco's business now.

19 But I think it's interesting when I look at the

20 desire to keep it at ten percent and include it in the

21 white paper.

22 The white paper is going to include, on this

23 plastics issue, real, I mean issues like what do we do

24 with three through seven plastic? Three through seven

25 plastic that's mandated by law that it gets picked up in

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1 curbside collection programs and paid for, or funded,
2 fund that program, and yet no mechanism for any of the
3 hauling companies or any of the recyclers that pick that
4 material up to ever get reimbursed from DOC, Now that's
5 a pretty heavy duty issue that's going to be part of this
6 plastics white paper.

7 And to include the percentage of recycled
8 content on film plastic and plastic trash bags could get
9 lost in that, just by the enormity of the bottles, the
10 cans. I mean the bottles, and how we can find markets
11 through one through sevens.

12 So I think the fact that Mr. Nuffer and his
13 staff kept the ten percent open and just said, you know,
14 should we increase it, and didn't say how much we should
15 increase it to, allows for that kind of discussion.

16 I mean at one time it was 30 percent, wasn't it,

17 Mr. Nuffer?

18 MR. NUFFER: Yes.

19 BOARD MEMBER JONES: Another time is was going
20 to go up higher than that, wasn't it supposed to go to 40
21 or 35 or whatever it was? I mean it varied.

22 And I remember at the time, I think it was
23 Assemblywoman Debra Bowen that stood up and filled a
24 trash bag full of books that had recycled content, and
25 held it up for the world and the newspapers or the T.V.

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1 cameras to see that, in fact, that bag held what was in
2 that, you know, what she had filled with it, asking the
3 legislature not to cut down to ten percent.
4 So while supply may be a problem, this whole law
5 has been built on supply and demand and creating it. I'd
6 like to see the report go forward the way it is, and
7 let's talk about what that right percentage is, you know,
8 if it's twelve percent, twenty percent, fifteen percent;
9 rather than just wait and see it included in the white
10 paper that it may not get the attention it needs.
11 So that would be my discussion.

12 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
13 you. Any other questions, or I mean comments?

14 BOARD MEMBER JONES: Madam Chair, I would like
15 to move adoption of Resolution 2001-375, consideration of
16 approval of the report to the legislature on plastic
17 trash bags survey, Public Resources Code 42293 (b)

18 BOARD MEMBER MEDINA: Second.

19 MS. MOULTON-PATTERSON: We have a motion by Mr.
20 Jones, seconded by Mr. Medina.
21 Please call the roll.

22 BOARD SECRETARY FARRELL: Jones?

23 BOARD MEMBER JONES: Aye.

24 BOARD SECRETARY FARRELL: Medina?

25 BOARD MEMBER MEDINA: Aye.

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1 BOARD SECRETARY FARRELL: Paparian?

2 BOARD MEMBER PAPARIAN: Aye.

3 BOARD SECRETARY FARRELL: Moulton-Patterson?

4 BOARD CHAIR MOULTON-PATTERSON: Aye. Okay, item

5 29.

6 MS. WOHL: Agenda item 29 is consideration of

7 approval of the rigid plastic packaging container

8 compliance agreements for compliance years '97, '98, and

9 '99.

10 And John Nuffer will present.

11 MR. NUFFER: As you know, Madam Chair and Board

12 members, each month we're bringing to you a number of

13 companies, a number of compliance agreements with

14 companies that were out of compliance with the rigid

15 plastic packaging container program in '97, '98, or '99.

16 So far we've negotiated over a hundred such

17 agreements. This month we're bringing forward, I think,

18 fourteen for your consideration. We're constantly day in

19 and day out negotiating these agreements, so I need to

20 make some changes for you in the agenda item.

21 If you'll look at just the item title on the

22 first page, 29-1, number four, Bemis Manufacturing has

23 demonstrated to us that they are in compliance with the

24 law now, so we're withdrawing them from this item.

25 Number six, Botanical Science. We had

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1 considered them for a public hearing. Once we discussed
2 that with them they decided to enter into a compliance
3 agreement. That's why they're included this time.

4 We are still in discussions with Lamplight
5 Farms, so we'd like to pull that compliance agreement.

6 Number fifteen, Old World Industries, they are
7 now in compliance.

8 Number 16, Pacific Sun Makers produces a small
9 quantity or uses a small quantity of containers, we're
10 going to put them at the end with all the other small
11 quantity users.

12 Number 19, Sierra International. We've pulled
13 them because we're still negotiating the compliance
14 agreement.

15 We're also pulling the next one, Sunbeam
16 Corporation, because we're still negotiating the
17 agreement with them.

18 And finally, United Laboratories is also a small
19 quantity user, we will put them with the other small
20 quantity users in our final item to you.

21 So I can read you the resolution numbers for the
22 companies that are left if that would make things easier.

23 BOARD MEMBER JONES: Nah.

24 MS. MOULTON-PATTERSON: I think Mr. Jones has
25 it. Thank you. Any questions?

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1 Mr. Jones.

2 BOARD MEMBER JONES: Okay, Madam Chair. I'll

3 just mark this real quick.

4 Madam Chair, I'm going to move adoption of

5 Resolution number 2001-350. Okay, we're only doing,

6 we're only going to do the resolution numbers, right,

7 compliance numbers don't --

8 MR. NUFFER: Only for the compliance agreements.

9 BOARD CHAIR MOULTON-PATTERSON: Right.

10 BOARD MEMBER JONES: Right, I mean the

11 resolution number for the consideration of the compliance

12 agreements, you just need the resolution number not the

13 compliance number?

14 MR. NUFFER: Yes, right.

15 BOARD MEMBER JONES: Okay. Okay. Madam Chair,

16 I'm going to read a whole bunch of these. Consideration

17 of approval of rigid plastic packaging container RPPC

18 compliance agreements for compliance years '97, '98, and

19 '99 for ACL Stat -- well, I'll just read the numbers.

20 2001-350, 2001-353, 2001-354, 2001-356,

21 2001-358, 2001-360, Lamplight Farms is --

22 CHIEF LEGAL COUNSEL TOBIAS: Excuse me for a

23 second.

24 BOARD MEMBER JONES: You know what, these don't

25 correspond with the ones they gave us.

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1 CHIEF LEGAL COUNSEL TOBIAS: They don't match.

2 MS. MOULTON-PATTERSON: Okay. Ms. Tobias, can

3 you help us out here?

4 CHIEF LEGAL COUNSEL TOBIAS: Well I think

5 perhaps what Mr. Nuffer should do is, based on the agenda

6 item, excerpt out the ones that don't need to be

7 approved, and then Mr. Jones can make a motion based on

8 that approving the rest of the compliance agreements.

9 Will that work, Mr. Nuffer?

10 MR. NUFFER: Sure.

11 CHIEF LEGAL COUNSEL TOBIAS: So these don't

12 match, and I'm a little uncomfortable having the

13 resolution numbers read off --

14 BOARD MEMBER JONES: I didn't notice it until

15 Lamplight, we saw that one.

16 CHIEF LEGAL COUNSEL TOBIAS: Well we were

17 sitting here noticing that there were a few discrepancies

18 here.

19 So I think based on the agenda item that you

20 have in front of you you have a number of companies

21 listed. I think Mr. Nuffer can tell the Board which ones

22 do not need to be approved in this agenda item, then you

23 can make your motion as to all the rest.

24 BOARD MEMBER JONES: Okay. See, he offered, my

25 mouth was too quick.

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1 MR. NUFFER: So you'd like to know which ones

2 are not to be approved today?

3 CHIEF LEGAL COUNSEL TOBIAS: In the agenda item,

4 which ones are not being approved because you've already

5 dealt with it or you've moved it somewhere else, and Mr.

6 Jones can make a motion that deals with the rest of them.

7 MS. MOULTON-PATTERSON: You want to repeat that,

8 Mr. Nuffer?

9 MR. NUFFER: Sure. So the first is Bemis

10 Manufacturing, and that is resolution --

11 CHIEF LEGAL COUNSEL TOBIAS: I don't think you

12 need to call that out, John.

13 MR. NUFFER: Okay. Lamplight Farms, Old World

14 Industries, Pacific Sun Makers, Sierra International,

15 Sunbeam Corporation, and United Laboratories.

16 That's Bemis, Lamplight, Old World, Pacific Sun

17 Makers, Sierra International, Sunbeam, and United

18 Laboratories.

19 BOARD MEMBER JONES: And Botanical Science,

20 right?

21 MR. NUFFER: Botanical Science we're including

22 in this item, they had been scheduled for a public

23 hearing.

24 BOARD MEMBER JONES: All right. Madam Chair.

25 MS. MOULTON-PATTERSON: Mr. Jones.

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1 BOARD MEMBER JONES: I move adoption of the
2 resolutions that correspond with the information we just
3 got.

4 CHIEF LEGAL COUNSEL TOBIAS: With the exception
5 of the ones, Mr. Nuffer --

6 BOARD MEMBER JONES: With the exception of the
7 ones, right.

8 BOARD MEMBER MEDINA: Second.

9 MS. MOULTON-PATTERSON: Thank you, Mr. Medina.

10 Motion by Mr. Jones, seconded by Mr. Medina,
11 with the exceptions that have been read on the record.
12 Please call the roll.

13 BOARD SECRETARY FARRELL: Jones?

14 BOARD MEMBER JONES: Aye.

15 BOARD SECRETARY FARRELL: Medina?

16 BOARD MEMBER MEDINA: Aye.

17 BOARD SECRETARY FARRELL: Paparian?

18 BOARD MEMBER PAPARIAN: Aye.

19 BOARD SECRETARY FARRELL: Moulton-Patterson?

20 BOARD CHAIR MOULTON-PATTERSON: Aye. Thank you.

21 That was our last agenda item. Are there any
22 other public comments?

23 Hearing none, again, I want to thank my
24 colleagues and the staff and everyone. I know this has
25 been a difficult day for us, and we really appreciate

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1 everything.

2 And again, Frank, thanks to you and Mark and the

3 people that Mark mentioned today on everything you did

4 yesterday. We really appreciate it.

5 Thank you, and we're adjourned until October.

6 (Thereupon the foregoing meeting was concluded

7 at 3:00 p.m.)

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1 CERTIFICATE OF CERTIFIED SHORTHAND REPORTER.

2 I, DORIS M. BAILEY, a Certified Shorthand Reporter
3 and Registered Professional Reporter, in and for the
4 State of California, do hereby certify that I am a
5 disinterested person herein; that I reported the
6 foregoing meeting in shorthand writing; and thereafter
7 caused my shorthand writing to be transcribed by
8 computer.

9 I further certify that I am not of counsel or
10 attorney for any of the parties to said proceedings, nor
11 in any way interested in the outcome of said
12 proceedings.

13 IN WITNESS WHEREOF, I have hereunto set my hand as a
14 Certified Shorthand Reporter and Registered Professional
15 Reporter on the 25th day of September, 2001.

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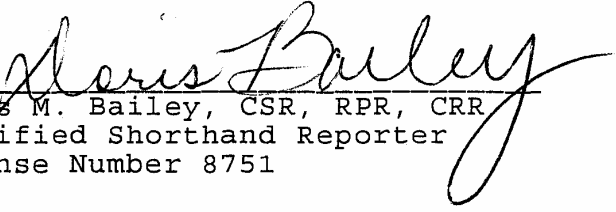
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